

# GOA STATE INFORMATION COMMISSION

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

## Appeal No. 88/2020

Shri Kaushal Naik,  
CF-1, Waman Residency,  
Alto Duler Road,  
Behind Mapusa Municipality,  
Mapusa, Bardez Goa.  
v/s

..... Appellant

1) Public Information Officer,  
North Goa Planning & Development Authority,  
Mala Link Road,  
Mala, Panaji Goa.  
403001.

2) The First Appellate Authority,  
The Member Secretary,  
Office of the Member Secretary,  
North Goa Planning & Development Authority,  
Mala Link Road,  
Mala, Panaji Goa.  
403001.

.... Respondents

Filed on : 15/05/2020  
Decided on : 22/11/2021

### **Relevant dates emerging from appeal:**

RTI application filed on	: 23/12/2019
PIO replied on	: 24/01/2020
First appeal filed on	: 28/01/2020
FAA order passed on	: 25/06/2020
Second appeal received on	: 15/05/2020

## **ORDER**

1. The brief facts of this case as contended by the Appellant Shri Kaushal Naik are that the Appellant vide application dated 23/12/2019 sought certain information under section 6 (1) of Right to Information Act, 2005 (for short the 'Act') from Respondent No. 1,

Public Information Officer (PIO), North Goa Planning and Development Authority, Mala, Panaji Goa. The PIO denied the information vide letter dated 24/01/2020 under section 8 (1) (j) of the Act stating that the information is of personal nature, pertaining to third party and the third party Smt. Rajmi Narvekar has objected to the disclosure. Being aggrieved, Appellant preferred appeal before Respondent No. 2, First Appellate Authority (FAA), the Member Secretary, North Goa Planning and Development Authority, Mala, Panaji Goa. The FAA heard the appeal; however no order was passed within the stipulated period. Therefore the Appellant has preferred second appeal before this Commission.

2. The concerned parties were notified and pursuant to the notice, Appellant appeared in person. PIO appeared through legal representative and filed reply dated 22/07/2020. PIO stated that the information sought pertains to third party and therefore notice dated 23/07/2020 was issued to Smt. Rajmi Narvekar, third party. The reply along with enclosures was filed by third party on 28/08/2020. Later, on 03/09/2021, third party furnished written synopsis of arguments, whereas the Appellant stated that the appeal memo may be considered as his argument.
3. The Appellant in his appeal memo narrated the sequence of denial of information to him by the authorities and stated that the desired information pertains to plot No. 37 at Peddem, Mapusa, purchased by Mrs. Rajmi Narvekar, which has been approved as C-2 Commercial. That the Appellant has sought information regarding the process of this decision and the said information cannot be exempted as personal information, as the same is in public domain. The Appellant alleged irregularity in the process of this decision and stated that he is seeking information to unearth the irregularities, committed by the authority.

4. The PIO stated in his reply that the information sought by Appellant pertains to third party, Mrs. Rajmi Narvekar and the third party vide letter dated 16/01/2020 addressed to the Member Secretary of North Goa Planning and Development Authority has raised objection to disclose the information to the Appellant. Accordingly, Appellant was informed that the information is denied under section 8 (1) (j) of the Act. PIO further stated that what the Appellant is seeking at point no.1 is in the form of query as the Appellant is seeking as to on what basis the decision was made to change the status of only one plot and that the Appellant is not seeking any particular information but asking for reason, and therefore such information cannot be issued.
  
5. Third party Mrs. Rajmi Narvekar stated in her reply that the Appellant filed nine applications seeking information regarding construction in plot no.37, which shows that the real motive of Appellant is to harass the third party and her family members as he has hostility towards the third party. Appellant does not have any *locus standi* - with respect to the said plot and disclosure of the information sought would cause unwarranted invasion of privacy of third party and such disclosure would not satisfy any larger public interest, rather it would assist the Appellant to seek personal vendetta against third party and her family. That the information sought by Appellant does not fall within the ambit of the Act and therefore the said information deserves to be denied.
  
6. In support of her arguments, third party has relied on the decision of High Court of Bombay at Goa in Celsa Pinto v/s The Goa State Information Commission and some Judgements of Central Information Commission. Adv. Abhishek Sawant, while arguing on behalf of the third party stated that Appellant has asked for reasons behind the decision instead of asking for information. The Appellant has been filing number of applications only to harass the third party. That the PIO and FAA in consonance of the Act have exercised their

discretionary power under section 8 (1) (j) of the Act and denied the information to the Appellant and it is prayed that the decision of PIO and FAA be upheld and the appeal be dismissed.

7. The Commission has perused submissions, heard arguments of the concerned parties. It is seen from the available records that the Appellant has sought information pertaining to one plot No. 37 at Peddem, Mapusa which falls within the jurisdiction of North Goa Planning and Development Authority/PIO. Appellant has asked information in two parts. One - the basis on which the decision to change the status of the plot is taken; and Two - as per the NGPDA bye-laws whether the said plot qualifies to be changed into the status of C-2 Commercial Zone based on certain parameters (as mentioned in the application). Here, it is noted that the Appellant is asking reasoning behind the decision taken by public authority. The PIO is not required to give reasoning or opinion under the Act. Therefore, the Commission is in agreement with the contention of PIO and third party that the Appellant is asking for reasons behind the decision making and the application is in the form of query. Therefore the application does not fall under the ambit of the information as defined in section 2 (f). However the Appellant has alleged irregularities in the process of said decision of the authority and contended that he has filed the application and the appeal to unearth the irregularities committed by the public authority and hence his application is in public interest.

8. Hon'ble High Court of Delhi in LAP 24/2015 and CM No. 965/2015, The Registrar, Supreme Court v/s Commodore Lokesh K. Batra other has held;-

*"As already noticed above, Right to Information under section 2 (j) means only the right to information which is held by any public authority. We do not find any other provision under the*

*Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the Appellant”.*

9. In another matter, the Hon’ble Supreme Court in the case of People’s Union for Civil Liberties v/s Union of India, AIR Supreme Court 1442 has held :-

*“Under the provision of RTI Act public Authority is having an obligation to provide such information which is recorded and stored, but not thinking process which transpired in the mind of authority which has passed an order”.*

10. Considering the ratio laid down by the Hon’ble High Court of Delhi and the Apex Court as above, the Commission is of the view that the information sought by the Appellant does not fall under the ambit of ‘information’ defined under this Act.

11. At the same time, the Commission wishes to highlight the fact that the basic object of RTI Act is to ensure maximum disclosure of information in order to bring complete transparency in functioning of public authorities. This Act has been enacted in order to ensure effective access to information and provide an effective framework for effectuating the right to information recognized under Article 19 of the Constitution. Keeping in mind, the spirit of this Act, the Commission believes that though the Appellant has failed to seek ‘information’ under the Act, he may be provided the relevant available information pertaining to his application.

12. In the light of above discussion the Commission disposes the appeal with the following order:-

- (a) The PIO is directed to furnish copy of rules and regulations/ bye-laws regarding the change of status from settlement S -1 Zone to C -2 Commercial Zone in a residential area and copy of

the decision to change the status of the said plot no. 37 at Peddem, Mapusa, within 10 days of the receipt of this order, free of cost.

(b) The Registry is directed to send copy of this order to Mrs. Rajmi Narvekar, third party.

(c) All other prayers are rejected.

Proceeding stand closed.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any, may move against this order by way of a Writ Petition, as no further Appeal is provided against this order under the Right to Information Act, 2005.

Sd/-

**Sanjay N. Dhavalikar**  
State Information Commissioner  
Goa State Information Commission  
Panaji - Goa