

# GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7<sup>th</sup> Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437908, 2437880 E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.gsic.goa.gov.in](http://www.gsic.goa.gov.in)

---

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

## Appeal No. 140/2020

Shri. Shukr Sudin Sinai Usgaokar,  
D-101, Vasant Vihar,  
Near Adarsh Circle,  
Caranzalem - Goa 403002.

..... Appellant

v/s

1) Public Information Officer,  
Social Welfare Department.  
18<sup>th</sup> June Road, Panaji - Goa.

2) Public Information Officer,  
Institute of Public Assistance (Provedoria),  
Mala, Panaji – Goa.

3) Public Information Officer,  
Apna Ghar, Mercedes Goa 403005.

4) Public Information Officer,  
Department of Child & Women Development,  
St. Inez, Panaji – Goa.

..... Respondents

Filed on : 13/08/2020

Decided on : 26/11/2021

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

RTI application filed on	: 07/01/2020
PIO replied on	: Nil
First appeal filed on	: 04/03/2020
FAA order passed on	: 18/05/2020
Second appeal received on	: 13/08/2020

## **ORDER**

- 1) The Appellant Shri. Shukr Sudin Sinai Usgaonkar, being aggrieved by the decision of the First Appellate Authority (FAA), Deputy Director (Admn) of Social Welfare Department and due to non furnishing of full and correct information by Public Information

Officers (Respondents) filed second appeal before this Commission on 13/08/2020. The appellant has filed this appeal against, Respondent No. 1 PIO, Social Welfare Department, Respondent No. 2 PIO, Institute of Public Assistance (Providoria), Respondent No. 3 PIO, Apna Ghar and Respondent No. 4 PIO, Department of Women and Child Development with prayers such as correct and full information, penalty be imposed on PIOs, compliance of section 4 (1)(a) and (b) of the Right to Information Act, 2005 (hereinafter to be referred as "Act") etc.

- 2) It is the contention of the appellant that he had sought information on 22 points vide application dated 07/01/2020 filed under section 6(1) of the Act. The application was addressed to the PIO of the office of Chief Secretary, Government of Goa, which was transferred to PIO, Superintendent (Legal), Law Department vide letter dated 10/01/2020. The said application was further transferred to PIO, Home Department on 13/01/2020 and returned to the PIO, Superintendent (Legal), Law Department vide letter dated 22/01/2020. Later on 27/01/2020 the said application was transferred to PIO, Social Welfare Department (Respondent no.1). The appellant did not receive any reply from PIO, Social Welfare Department and therefore filed appeal dated 04/03/2020 before the FAA. During the proceeding of first appeal PIO, Social Welfare Department vide letter dated 28/04/2020 furnished part information to appellant. The FAA, vide order dated 18/05/2020 directed PIO to transfer the application to the concerned departments within one week.
- 3) It is the contention of the appellant that in pursuance of the order of FAA, the said application was transferred on 20/05/2020 to Respondent no.2, PIO, Institute of Public Assistance (Providoria) and Respondent no.3, PIO, Apna Ghar. The application was also

transferred to Respondent no.4, PIO, Department of Women and Child Development vide letter dated 15/06/2020. Respondent no.3 and Respondent no.4 subsequently returned the said application to Respondent no.1 stating the information does not pertain to Apna Ghar and the information is not available in Department of Women and Child Development. Respondent no.2 furnished part information vide letter dated 18/06/2020.

- 4) The appellant contends that he waited for more than 30 days within which period, Respondent PIOs are supposed to dispose the application/furnish the information as per section 7 (1) of the Act. And, aggrieved by non receipt of full and correct information, inspite of the directions by the FAA, the appellant preferred second appeal.
- 5) The appeal was registered in the Commission on 13/08/2020 and the concerned parties were notified. Respondent no.1 filed reply dated 01/04/2021, 11/05/2021 and 25/10/2021. Respondent no.2 submitted reply dated 01/04/2021. Respondent no.3 filed reply dated 06/10/2020 and Respondent no.4 filed reply dated 06/10/2020, 09/10/2020 and affidavit dated 01/09/2021. Appellant Shri. Shukr Sudin Sinai Usgaonkar appeared in person and filed submission dated 11/05/2021, 14/06/2021; argued as well as filed return arguments on 04/08/2021 and later filed additional argument dated 01/09/2021.
- 6) Respondent no.1 PIO, Social Welfare Department stated in her reply that she received the application from Law Department on 04/03/2020 and replied the Appellant vide letter dated 28/04/2020 requesting him to collect the information. FAA vide order dated 18/05/2020 directed Respondent no.1 to transfer the application to the relevant department. Accordingly, Respondent no.1

transferred the said application to Respondent no.2, PIO, Provedoria and Respondent no.3, PIO, Apna Ghar vide letter dated 20/05/2020 and to Respondent no 4, PIO, Department of Child and Women Development vide letter dated 15/06/2020. Respondent no.1 PIO, Social Welfare Department, further stated that she has furnished available information and her office does not have any more information sought by the Appellant in his application dated 07/01/2020.

- 7) Respondent no.2 PIO, Institute of Public Assistance (Provedoria) stated in her reply that she received the said application from PIO, Social Welfare Department and the available information is furnished vide letter dated 18/06/2020 to the Appellant. Information under point no.1, 2, 7, 8, 9 is furnished and information under point no.3, 4, 5, 6, 10 and certified copies asked by the Appellant from point 1 to 10 are not available in her office.
- 8) Respondent no.3 PIO, Apna Ghar stated in her reply that the said application, received from Respondent no.1 PIO, Social Welfare Department was returned by informing them that the subject matter does not pertain to Apna Ghar. The Appellant has sought detailed information in relation to The Goa, Daman and Diu Prevention of Begging Act, 1972. However, Apna Ghar is an Government run institution which functions under the Juvenile Justice (Care and Protection of Children) Act and it is not a certified institution under the Goa, Daman and Diu Prevention of Begging Act, 1972 and therefore the information sought by the appellant vide application dated 07/01/2020 is not available in the office of Apna Ghar.

- 9) Respondent no. 4 PIO, Department of Child and Women Development stated in her reply and affidavit dated 01/09/2021 that application seeking information pertaining to the Goa, Daman and Diu Prevention of Begging Act, 1972 was received by her from Respondent no 1. However her department does not deal with this Act and therefore the information sought did not pertain to her Department. Hence the application was returned to Respondent no.1, PIO, Social Welfare Department, as the information sought by the Appellant vide application dated 07/01/2020 is not available in her office.
- 10) The Appellant argued that vide application dated 07/01/2020 addressed to the PIO, Office of Chief Secretary he sought information on 22 points, all pertaining to the Goa, Daman and Diu Prevention of Begging Act, 1972. The said application was transferred to various authorities by the concerned PIOs and was finally transferred to Respondent No. 1, PIO, Social Welfare Department. Respondent No.1, furnished part information and transferred the application to Respondent no. 2, 3 and 4 as directed by the FAA. Information furnished by Respondent No. 2 is not complete and Respondent no. 3 and 4 have taken the stand that the said information is not available with them as the Goa, Daman and Diu Prevention of Begging Act is not dealt by their departments. Respondent No. 1 and 2 have furnished part information; however have not given reasons for the non availability of the remaining information. The whole purpose of the Act is to set out practical regime of right to information for citizens, to secure access to information under the control of public authorities and promote transparency and accountability in the working of public authority. Hence the Appellant deserves the information sought by him.

11) The Commission has perused submissions and heard the concerned parties. It is seen that the Appellant has sought information related to the Goa, Daman and Diu Prevention of Begging Act, 1972 and the subject matter pertains to Respondent no. 1 PIO, Social Welfare Department and Respondent No. 2, PIO, Institute of Public Assistance (Provedoria) and both the PIOs have furnished the information available in their respective office. The delay is caused at the level of authorities in transferring the said application. Respondent no. 1 and 2 have not denied the information; Respondent no. 3 and 4 have conveyed their inability to furnish any information as their office does not deal with the subject matter of the application dated 07/01/2020.

12) Section 2(f) of the Act defines information as

“information” means any material in any form, including records, documents, memos, e-mails, opinion, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

The above para gives clear picture and scope of the word ‘information’ which is qualified under the Act, and which the PIO is required to furnish.

Section 7(9) regarding disposal of request reads: -

Information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or be detrimental to the safety or preservation of the record in question.

The above para makes it clear that the appellant has to be provided with the information in the form in which it is sought, however the PIO is required to ensure that resources are not diverted disproportionately. In such a situation, PIO may furnish the information in the form it is available, and not in the form sought by the appellant.

After careful perusal of the records of this case, vis a vis section 2(f) and 7(9) of the Act, it is the considered opinion of the Commission that Respondent no. 1 and 2 have furnished the available information to appellant and Respondent No. 3 and 4 do not have any information pertaining to the application dated 07/01/2020. However Respondent no. 1 and 2 are being directed to state on affidavit that the remaining information sought by the appellant is not available in their office.

13) It is observed that appellant has waited for a long time patiently for the information from the concerned authorities. On the other hand, public authorities were involved only in transferring the application from one PIO to another, in the initial stages. Appellant sought information pertaining to the Goa, Daman and Diu Prevention of Begging Act, 1972 and he addressed his RTI application to the PIO of office of the Chief Secretary as he was unsure as to which was the public authority tasked with the implementation of the said Act. Therefore, it was the responsibility of the PIO, Office of the Chief Secretary, either to transfer the application under section 6 (3) of the Act to the appropriate authority or should have acted as nodal officer in this matter, ascertaining the appropriate holder of information, procure the same from them and furnish it to be appellant. On the contrary, the PIO, office of Chief Secretary without application of mind, transferred the application to PIO, Superintendent (Legal), Law Department, further transferred to PIO, Home Department,

returned by Home Department to PIO, Law Department. Later PIO, Law Department transferred the said application to PIO, Social Welfare Department. PIO, Social Welfare Department furnished part information and transferred the application to Respondent no. 2, 3 and 4; again here Respondent no. 3 and 4 are not the appropriate authorities.

14) In the process, the application dated 07/01/2020 filed by appellant was being kicked like a football by number of authorities and this game of football continued for over a period of six months, wherein appellant was compelled to become a silent spectator. However, PIO, office of the Chief Secretary; PIO, Superintendent (Legal), Law Department and PIO, Home Department are not impleaded in this appeal proceeding. Therefore the Commission desist itself from reprimanding the above mentioned authorities.

15) 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".*

16) Hon'ble Supreme Court in Civil Appeal 6454 of 2011, C.B.S.C v/s. Aditya Bandopadhyay, has held in para 35 :-

*"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides*



*access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.*

- 17) With the facts of this matter brought on record and subscribing to the ratio laid down by Hon'ble High Court of Delhi and Hon'ble Apex Court, the Commission concludes that Respondent No. 1 and 2 have furnished available information to the appellant and

Respondent no. 3 and 4 does not have any information pertaining to the application of the appellant.

18) In the light of above discussion, the present appeal is disposed with the following order :-

(a) As the available information has been furnished to the appellant, no more intervention of this Commission is required in this matter.

(b) Respondent no. 1, PIO, Social Welfare Department and Respondent no. 2, PIO, Institute of Public Assistance (Provedoria), are directed to file an affidavit before this Commission, regarding information unavailable in their respective offices stating the reason for non availability, within 15 days of receipts of this order, with a copy of the same to the appellant.

(c) The Registry is directed to send a copy of this order to the office of the Chief Secretary for information and appropriate action.

(d) All other prayers are rejected.

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

@rv\*