

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) website: [www.gsic.goa.gov.in](http://www.gsic.goa.gov.in)

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**Appeal No.178/2020/**

Dr. D. J. De Souza,  
C/o. Luz Lab ,  
Libania Bldg., New Market,  
Margao Goa.

.....Appellant

V/S

1. Public Information Officer,  
The Sub Divisional Police Officer,  
Opp. Azad Maidan, Police Headquarters,  
Panaji – Goa .

2. First Appellate Authority,  
Supt. of Police (North),  
North District Headquarters,  
Porvorim, Goa 403521

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 27/10/2020**

**Decided on: 12/08/2021**

**FACTS IN BRIEF**

1. By application dated 13/07/2020 under sec 6(1) of RTI Act, the Appellant herein sought from the Respondent PIO, SDPO Office, Panaji, information on five points with respect to Agacaim Police Station. The said application was transferred to APIO on 14/07/2020 under sec 6(3) of the Act.
2. The PIO replied on 03/08/2020 wherein the information was refused as the same does not come within the preview of sec 2(f) of the RTI Act.
3. Aggrieved by the said reply the Appellant filed First Appeal before Respondent No. 2, Superintendent of Police (North) being the First Appellate Authority (FAA).

4. The FAA by order dated 25/09/2020 partly allowed the said appeal and directed PIO to furnish the information at Point No. 2 to the Appellant free of cost within a week. Appellant being aggrieved by said order has landed before this Commission by way of Second Appeal under sec 19(3) of the Act.
5. After notifying the parties, the Respondent No. 1 the PIO filed his reply on 25/03/2021. PIO averred in his response, that as per the reply provided by APIO, the information requested by the Appellant were in question form, hypothetical queries, seeking reason and explanation from the Public Authority and it does not come within the purview of sec 2(f) of RTI Act.
6. I have perused the records and considered the pleadings of the parties. The information sought by the Appellant in four points is as under:
  1. Why is PI of Agacaim Police Station not available at Agacaim Police Station give the reason as more than 40 days have elapsed since his non-availability.
  2. Who is incharge of Agacaim Police Station in the absence of Police Inspector Uday Parab.
  3. Who was incharge of Agacaim Police Station on 11/07/2020, Name of the Person and designation.
  4. When is P.I. Parab likely to be available whole time at Agaciam Police Station.

During the course of First Appeal, the FAA vide its order directed the PIO to furnish the information at Point No. 3 to the Appellant free of cost within a week.

On perusal of the content of the application under RTI, the Appellant is seeking information in question format though Point

No. 3 has been in same format, the FAA has considered the same and transferred to the APIO to furnish information.

The information sought start with question 'why', 'who' and 'when' that are intentional questions, and certainly the information can be furnished only if it is available on records. It is an established law that any hypothetical questions, an opinion, explanation, view or clarification sought, which are not part of records cannot be answered under RTI, as it is certainly not required to be maintained by any law.

7. While considering the extend and scope of information that could be dispensed under the act, the Hon'ble Supreme Court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyaya** (Civil Appeal no.6454 of 2011) at para 35 has observed:

*"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 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."*

Considering the above position of law, I find that the information sought by the Appellant cannot be ordered to be furnished in the present application as it is beyond the scope of sec 2(f) of the RTI Act.

8. In the backdrop of the above fact, I find no denial of information by PIO nor there is any delay. I therefore find no grounds to consider the request of the Appellant for imposing penalty and hence I dispose the present appeal with the following:

## **O R D E R**

The appeal stand dismissed.

Proceedings closed.

Pronounced in the open court.

Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner