

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website:www.gsic.goa.gov.in

Appeal No.192/2020

Shri. Nixon L. Furtado,
H.No. 51, Copelwado,
Sernabatim, Salcete-Goa
403708.

.....Appellant

V/S

1. The Public Information Officer,
Office of Superintendent of Surveys and Land Records,
Panaji Goa.

2. The First Appellate Authority,
Office of the Director of Settlement and Land Records,
Panaji Goa. 403001

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 13/11/2020

Decided on: 16/11/2021

FACTS IN BRIEF

1. The Appellant, Shri. Nixon L. Furtado, H.No. 51, Copelwado, Sernabatim, Salcete-Goa, by his application dated 16/07/2020 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO) Office of Directorate of Settlement and Land Records at Panaji Goa:-

"With reference to the files maintained by the DSLR, Panjim i.e Mutation, Partition, Disputed Cases (DC), Demarcation, Land Acquisition or any other files where, in powers are vested to the DSLR, Panjim to adjudicate upon the matters, Maps, Plans, Survey records etc.

Kindly issue me the following information with reference to the files mentioned above.

- 1) Number of files missing from the DSLR and ISLR with respect to the above.
 - 2) Copies of Police Complaints files regarding the missing files/ documents with the concerned Police Station.
 - 3) Number of Survey Plans, Old Cadastral Plans reported missing or torn/ destroyed from the DSLR.
 - 4) Copies of Police Complaints filed regarding the same with the concerned Police Station.
 - 5) Number of complaints filed/ received before the DSLR and ISLR in respect of forgery and tempering of records.
 - 6) Action initiated by DSLR with respect to the complaint of forgery and tempering of records.
 - 7) Number of Police complaints alleging forgery and tempering of records have been filed against the DSLR and ISLR.
2. The said application was replied on 12/08/2020 by the PIO in the following manner:-

"This is with reference to your application dated 15/07/2020, wherein certain information was sought by you.

In this regard, please refer Order No. 30/1/2005-RD(Part)/3697 dated 06/07/2020 providing details of P.I.O. of different Taluka Officers of this Department (Copy enclosed). The information sought by you does not mention the Taluka and the period and also as per section 2 (f) of R.T.I. Act 2005 the PIO is required to furnish only that information which is already exists and is held by public authority or held under the control of authority."

3. Not satisfied with the reply of the PIO, Appellant preferred first

appeal before Deputy Director of (Admn). Directorate of Settlement and Land Records at Panaji, and therefore filed second appeal before the Commission under sec 19(3) of the Act.

4. Notice was issued to the parties, pursuant to which PIO appeared and filed her reply on 24/08/2021, representative of the FAA, Shri. Balaji Parab appeared and filed reply on behalf of FAA on 24/08/2021.
5. According to Appellant, he filed RTI application on 16/07/2020 to PIO and thereafter filed first appeal before FAA, however till today they failed to furnish the information and therefore they acted irresponsibly and prayed that direction be issued to PIO to furnish the information and also penalty be imposed on PIO of Rs. 250/- per day for not furnishing the information within stipulated time frame.
6. The PIO through her reply dated 24/08/2021 contended that vide letter dated 12/08/2020 attention of the Appellant was drawn towards the order No. 30/1/2005-RD(Part)3697 containing the details of PIO of the different taluka offices where he can avail the information. The application of the Appellant was vague and did not mentioned the taluka and period of information generated. According to her the information sought for is not the information as per sec 2(f) of the Act.
7. The FAA through his reply submitted that the then FAA, Shri. Kapil Phadte issued the notices and after hearing both the parties fixed the matter for order.

Since the then FAA was transferred to the office of Deputy Collector and SDO at Mapusa vide order dated 05/01/2021 he was relieved from the office of Directorate of Settlement and Land Records, pending the disposal of first appeal.

8. According to FAA, he took the charge as Deputy Director (Admin) however he was not aware of the pendency of first appeal and he came to know only on 16/03/2021 when he received notice from the office of Commission in respect of the second appeal.

After issuing notice, the Appellant brought to the notice of the FAA that it would be inappropriate to hear the first appeal when the second appeal is already filed before the Commission and considering this he closed the proceeding of the first appeal.

9. On going through the application filed under sec 6(1) of the Act, which is reproduced hereinabove at para No. 1, Appellant has sought the information / records which do not pinpoint any specific information that can be provided to him. In order to get information from the public authority the Appellant has to specify the information as required under sec 6(1) of the Act. Where the request for information is straightforward, clear and has defined scope, it would be possible for the PIO to identify the material on record with respect to the subject. However where the request for information is wide, and unspecific, it is impractical for any PIO to furnish the information.

10. The information sought for by the Appellant is without specifying the date and year of generation of information or the taluka/ place where such information generated. This kind of request cannot be treated to fall within the ambit of information as defined under the provision of sec 2(f) of the Act.

11. Section 2(j) of the Act gives the extend of right to the seeker as under:

"2(j). right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to__

- (i) inspection of work, documents, records;*
- (ii) taking notes extracts or certified copies of documents or records;*
- (iii) taking certified samples of material;*
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"*

On reading of this provision reveals that a seeker can exercise his right in the form and manner as specified in sec 2(j) of the Act.

The Act confers on all citizens a right to access information and this right has been defined under sec 2(j) of the Act. An analysis of this section would make it clear that the right relates to information that is held by or under the control of any public authority. The definition also makes clear that the Right to Information includes the right to inspection of work, documents or records or taking notes etc.

12. The extent and scope of the information and the nature in which it is to be dispensed is elaborately discussed and laid down by the Apex Court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay (Civil Appeal no.6454 of 2011)** as under:

"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. 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.”

13. In the present case, the Appellant has not specified the Taluka and the period in respect of which he sought information. Same is necessary since under the Directorate of Settlement and Land Records there are number of Sub-ordinate offices, therefore it was not practical to furnish the information unless specific details are provided to the PIO.

14. The preamble of the Act states that this Act was enacted to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities. In actual practice, revelation of information is likely to conflict with other public interest including efficient operations of the Governments; optimum use of limited fiscal resources and the preservation of confidentiality. The PIO, therefore has to function within this limitation and scope.
15. In the light of the above Judgement and circumstances, I find no illegality or irregularity on the part of PIO in non-furnishing the information. I therefore find no grounds to consider the request of the Appellant for imposing penalty of Rs. 250/- per day on PIO as prayed by the Appellant and hence I dispose the present appeal with following:-

ORDER

- The appeal stand dismissed.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner