

GOA STATE INFORMATION COMMISSION
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Appeal No. 27/2021/SCIC

Shri. Akshay Shirodkar,
H.No. 312/B, Danda,
Siolim, Bardez-Goa.

.....Appellant

V/S

1. The Public Information Officer,
Works Division XIII,
Public Works Department,
Mapusa-Goa.

2. The First Appellate Authority,
The Chief Engineer – II,
Public Works Department,
Head Office at Altinho,
Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 04/02/2021

Decided on: 23/09/2021

FACTS IN BRIEF

1. Appellant, Shri. Akshay Ashok Shirodkar, r/o. H.No. 312/B, Danda, Siolim, Bradez-Goa by his application dated 18/08/2020 filed under sec 6(1) of the Right to Information Act, 2005 (Act for short) from Public Information Officer, Executive Engineer, Works Division XIII, Public Works Department, Mapusa-Bardez-Goa, the following information:

- 1) "Whether the Road leading from Diamond Hardware towards Darius Horizon, residential complex constructed in Survey No. 75 Sub Division 3 of Village Salvador do Mundo by M/s C.V. Constructions which is passing through Survey No. 75 Sub Division 2 of Village Salvador do Mundo, Taluka of Bradez, North Goa, Porvorim, State of Goa, Pin Code- 403521, as shown in the plans annexed hereto is a 'PUBLIC ROAD'?

2) Whether the maintenance of the above mentioned road in been done by P.W.D.?"

2. The PIO vide his letter dated 08/09/2020 replied as under:

1) The road passing through Survey No. 75 Sub Division 2 of village Salvador do Mundo as shown in the annexed plan was not constructed by P.W.D., & there are no documentary proof to state that, whether the road is public road.

2) Resurfacing was initially carried out in the year 2010 and subsequently in the year 2018.

3. Aggrieved with the reply of the PIO, Appellant preferred first appeal before the Chief Engineer-II, Public Works Department, Head Office, Altinho, Panaji Goa being First Appellate Authority (FAA).

FAA by its order dated 18/12/2020 upheld the reply and disposed off the first appeal.

4. Not satisfied with the order of FAA, Appellant preferred this second appeal under sec 19(3) of the Act before the Commission, with the prayer that direction be issued to PIO to furnish the information and penalty may be imposed on Respondent for not furnishing the information.

5. Notice was issued to the parties, pursuant to which they appeared. Adv. K.L. Bhagat appeared on behalf of both the Respondents and filed the reply on 07/07/2021 alongwith copy to other side. The Appellant appeared once on 16/04/2021 and chose not to appear on subsequent hearings. The matter was thereafter posted for arguments on 27/08/2021. After hearing the arguments of Respondents, the matter was adjourned for order, this order is therefore passed on the basis of records from the Appellant's side.

6. With respect to para No. 1 of the RTI application, the PIO has replied that such road was not constructed by Public Works Department and there is no documentary proof to state that the said road is a public road.
7. Regarding point No. 2 of the application, the PIO has replied that resurfacing was initially carried out in the year 2010 and subsequently in the year 2018. Thus the same is also replied.

The later part of maintenance of the above road has been appropriately dealt with by the PIO in reply before First Appellate Authority recorded in the order that, as per the records available, the said road was initially not constructed by Public Works Department and the same was not handed over to PWD by occupants/ local panchayat and since the road is not constructed by PWD neither the maintenance shall remain in PWD nor the documents shall remain with Public Works Department.

Impliedly therefore, providing information to the Appellant is beyond dispensation of PIO.

8. 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 Bandopadhyay (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. 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."

9. I have perused the copy of the appeal memo filed by the Appellant before the FAA. In the said appeal the response of PIO was challenged on the ground that the information is inadequate. How the information was inadequate was not substantiated by the Appellant. The FAA has considered the information furnished by the PIO vis a vis the application dated 18/08/2020 and has concluded that whatever that could have been furnished, has been issued to Appellant. In find no illegality in the said order of FAA.
10. Similar grounds have been repeated by the Appellant in the second appeal memo too, which are not substantiated. The reply of

the PIO and FAA are clear and prove beyond doubt that the available information is furnished. As far as RTI Act is concerned, it can only facilitate in providing information to the citizens in case if one seeks information which is available with the public authority in material form. Or the information which is required to be maintained under any statute or rule. As the information asked is not maintained by the PIO, it is not possible for him to provide such information.

11. In the above circumstances, I find no merit in the appeal and the same is liable to be dismissed. I therefore dispose the present appeal with the following:

O R D E R

The appeal is dismissed.

Proceedings closed.

Pronounced in the open court.

Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner