

# **GOA STATE INFORMATION COMMISSION**

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.scic.goa.gov.in](http://www.scic.goa.gov.in)

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

**Appeal No. 12/2020**

Shri. Rahul Basu,  
D3 & 4, Bay View 204,  
Nagalli Hills, Street 3, Lane 1,  
Dona Paula Goa  
403404.

..... Appellant

v/s

1. The Public Information Officer,  
Directorate of Settlement & Land Records,  
Panaji – Goa.

2. The First Appellate Authority,  
Directorate of Settlement & Land Records,  
Panaji – Goa.

..... Respondents

**Filed on : 09/12/2019**

**Decided on : 25/10/2021**

**Relevant dates emerging from appeal:**

RTI application filed on	: 26/06/2019
PIO replied on	: 20/08/2019
First appeal filed on	: 29/08/2019
First Appellate Authority Order passed on	: 24/10/2019
Second appeal received on	: 09/12/2021

## **ORDER**

1. The brief facts of this appeal, as contended by the Appellant are that the Appellant Shri. Rahul Basu vide application dated 26/06/2021 sought information under section 6(1) of the Right to Information Act, 2005 (for short, the Act) against Respondent No. 1, Public Information Officer (PIO), Goa Coastal Zone Management Authority as per following details – "All maps provided by GCZMA or other arms of the Goa Government to NCSCM for the preparation of draft GCZMA Plan including

cadastral maps and fishing ward data, in GIS file format (shp, dwg, kmz, etc.)". The PIO GCZMA transferred the application to Department of Environment and further Department of Environment transferred the application to the then PIO, Directorate of Settlement and Land Records (DSLRL). The Appellant received reply from PIO, DSLR dated 20/08/2019 asking appellant to furnish names of villages for which copies are sought.

2. It is the contention of the Appellant that treating this reply as denial, the Appellant filed First Appeal before the Deputy Director, DSLR. The Appellate Authority passed an order on 24/10/2019 allowing the appeal partly and by directing the PIO "to provide the hard copies of the maps in PDF format on payment of the applicable fees". That the said order is erroneous and does not satisfy the request of the Appellant.
3. Being aggrieved, the Appellant preferred second appeal against Respondent No. 1, Public Information Officer (PIO), DSLR and Respondent No. 2, First Appellate Authority (FAA), Directorate of Settlement and Land Records, Panaji Goa. The Appellant prayed for (a) direction to PIO to provide the information sought by the Appellant and (b) Penalty under section 20 of the Act to be imposed on PIO.
4. The second appeal filed under section 19(3) of the Act was registered in the Commission on 09/12/2019, notice was sent to the concerned parties and the matter was taken for hearing. The Appellant was represented by his advocates, Ms. Domiana Nazareth, PIO, appeared in person and FAA sent his representative. PIO filed reply dated 02/03/2020 and another written submission dated 10/08/2021. FAA filed reply dated 10/08/2021.

5. The Appellant initially appeared before the Commission through legal representatives, however chose to remain absent at later stage of proceeding. Rule 7(2) of the Goa Right to Information Commission (Appeal Procedure) Rules, 2006 framed by the State Government in exercise of the powers conferred under section 27 of the Act state – “7 (2) The Appellant or the Complainant, as the case may be, may, at his discretion, at the time of hearing of the appeal or complaint by the Commission, be present in person or through his duly authorized representative or may opt not to be present”.

The Commission gave ample opportunity to the Appellant to appear and argue himself or through his representative. In spite of this opportunity, Appellant neither filed any reply nor presented argument. However, in view of the above provision of Rule 7(2), the matter considered on merit as per the contents of the appeal memo. The appellant has stated in the appeal memo that in the course of the first appeal proceedings, the PIO has admitted that the requested information is available in her office in PDF format. Therefore, the information ought to be provided to the Appellant as it exists. The PIO and FAA have not provided independent reasoning on how the information can qualify exemption. That survey maps for the State of Goa are public information and the same has to be made public. By stating this, the Appellant sought all 8476 survey maps (PT Sheets) for the entire State of Goa.

6. The PIO stated in reply that she has not denied information, and had requested the Appellant to furnish the names of the villages to comply the request of the Appellant and work out the actual cost for providing the information in hard copies. There are established procedures in Survey Department for issue of any survey plan and the seeker has to pay the charges as notified in

Goa Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules and there is no provision under the said rules for providing copies of maps in soft copy format. Also wholesale disclosure of all the maps would prejudicially affect the security and economic interest of the state. PIO further stated that Goa Coastal Zone Management Authority had requested for soft and hard copies of village maps, however the Directorate of Settlement and Land Records had issued to them only hard copies, and not soft copies, as claimed by the Appellant. Therefore there was no impugned decision of PIO which warrants the Appellant to prefer first appeal so also the second appeal.

The PIO has pointed out that the said information can be claimed as exemption under section 8(1)(a) of the RTI Act. The PIO has cited following cases in support of his claim (i) Institute of Chartered Accountants of India v/s Shaunak H. Satya and Others (2011) 8 Scc 781 (SC), (ii) Civil Appeal Nos. 1966-1967 of 2020 (arising out of SLP(C) No. 5840 of 2015), Chief Information Commissioner v/s. High Court of Gujarat (SC), (iii) The Registrar, Supreme Court of India v/s. R.S. Misra (2017) 244 DLT 179 (Delhi High Court ).

7. The FAA, vide reply dated 10/08/2021 has stated that the First Appellate Authority Respondent No. 2 has fully complied the provision of Section 19, sub section (6) of the Act by disposing the first appeal.
8. Considering grievance of the Appellant and defence of Respondents, the points which arise for the determination of the Commission are:-
  - (a) whether the information qualifies from exemption under section 8(1) (a) ;

(b) whether the decision of PIO to furnish information only in hard copies after charging specific fee is justified.

9. Rule 4 of the Goa Right to Information (Regulation of Fee and Cost) (Second Amendment ) Rules, 2008, reads as below:-

"4. Fees under other rules:- Notwithstanding anything contained in these rules, in case any higher fee then specified above is laid down by any, Rules framed under any other law for time being in force for inspection, search of documents/records etc. or supply of certified copies or certified extract thereof such higher fee as specified under the relevant Rules shall be charged for such inspection, search or supply of certified copies or certified extracts thereof, as the case may be."

These Rules have been framed under the delegated power under section 27 of the RTI Act; which empowers the State Government to make rules for the Public Authority under its control. The said rule has come into force on 4<sup>th</sup> February, 2008. Bare reading of the rules, reveals that if there is a provision for a higher fee for inspection, and supply of copies, specified under the relevant rules of the department, such higher fees will be charged.

The Rules framed under Goa Land Revenue Code, 1968 (Act of 1969) and amended Goa Land Revenue (Inspection, Search and Supply of copies of Land Records) (Amendment) Rules, 2018, allow a higher fee for such purpose.

Since the Rules framed under the Right to Information Act, 2005, allow prescribing higher fees under such specific Rules, under different Legislations, higher fees are within the ambit of the Rules itself.

10. In a similar matter the High Court of Bombay at Goa in Writ Petition No. 283/2015 ( Vishal Gajanan Naik v/s the State of Goa ) has stated :-

*"A perusal of the provisions of Section 27 of the RTI Act makes it clear that the Appropriate Government has powers to frame Rules for specific purposes, including costs for supplying copies of the documents, as well as the fees required to be charged for supplying such information. In exercise of such powers, Rule 4 has been introduced by the*

*Notification dated 4<sup>th</sup> February, 2008. As such, the contention of the petitioner that the Rules have been framed without any authority under the RTI Act, cannot be accepted. "*

11. In yet another matter in the Hon'ble Supreme Court, Civil Appeal Nos. 1966-1967 of 2020 arising out of SLP (C) No. 5840 of 2015, in the case of Chief Information Commissioner v/s High Court of Gujarat and another, the Apex Court has held :-

*" In the absence of inherent inconsistency between the provisions of the RTI Act and other law, overriding effect of the RTI Act would not apply".*

12. Above mentioned judgments of Hon'ble Apex Court indicate that the stand taken by the PIO is in tune with the provisions of RTI Act, 2005 and rules framed there under. In the light of the above discussions, I hold that the appeal does not carry merit and needs to be disposed accordingly. Therefore, the following order :-

- a) The appeal is dismissed.
- b) However this order shall not deprive the Appellant to file fresh application and seek the information from PIO as per procedure and provisions of the Act.

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