

# GOA STATE INFORMATION COMMISSION

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

## Appeal No. 24/2021/SIC

Shri. Dominic Noronha,  
H.No. 92, Dandvado-Sirlim,  
Salcete-Goa

..... Appellant

v/s

1. The Public Information Officer (PIO),  
Directorate of Archives and Archaeology,  
Mala Panaji-Goa 403001

2. The First Appellate Authority (FAA),  
Directorate of Archives and Archaeology,  
Mala Panaji-Goa 403001

..... Respondents

**Filed on : 02/02/2021**

**Decided on : 30/11/2021**

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

RTI application filed on	: 24/08/2020
PIO replied on	: 17/09/2020
First appeal filed on	: 28/09/2020
First Appellate Authority Order passed on	: 29/10/2020
Second appeal received on	: 02/02/2021

## **ORDER**

1. The second Appeal filed by the Appellant Shri. Dominic Noronha, resident of Sirlim, Salcete, Goa under section 19(3) of the Right to Information Act, 2005 (for short, the Act) against Respondent No. 1 PIO, Directorate of Archives and Archaeology, Govt. of Goa and Respondent No. 2 First Appellate Authority (FAA), Directorate of Archives and Archaeology, Govt. of Goa, came before this Commission for hearing on 02/02/2021.

2. The brief facts leading to this appeal, as contended by the Appellant are that vide application dated 24/08/2020 he

sought certain information in soft copy from the PIO. The PIO vide reply dated 17/09/2020 denied information in soft copy stating these records are not stored in computer or any other device. Thereafter, Appellant filed first appeal dated 28/09/2020 before the FAA and the same was disposed vide order dated 29/10/2020 upholding PIO's decision. Being aggrieved, Appellant filed second appeal before this Commission with prayers (a) Direct Respondent to provide the information on CD-Rom, (b) impose penalty on PIO, (c) Recommend disciplinary action against FAA, (d) Direct Respondent for payment of compensation and cost, (e) Any other relief deems fit.

3. The appeal was registered and the concerned parties were notified. Pursuant to the notice, Respondent No. 2 FAA Smt. Blossom Madeira appeared in person on 21/04/2021 and filed written submission and stated that the PIO could not appear as he is admitted in hospital for treatment on Covid-19. Later, on 02/07/2021 PIO Shri. Vasu Usapkar appeared in person. Appellant initially remained absent, however appeared on 05/08/2021 and filed rejoinder to the reply of FAA, on 26/08/2021. Appellant argued on 25/10/2021 pressing for the information in soft copy and also pressed for penalty to be imposed on PIO.
4. Appellant stated in his submission that earlier in 2016 he was provided certified copies of the documents (not under RTI Act) by paying Rs. 50 per page. Since these documents were referred as 'computerised copies', the Appellant sought the same information in the form of soft copies under the Act, which has been wrongly denied. These documents were scanned/computerized and has attained the form of soft copies, which should be available to the citizens, as most of

the hard copies furnished are not clearly readable. Also the, office of PIO is charging exorbitant fees towards the certified copies. Different authorities including Ministry of Personnel, PG and Pension, Department of Personnel and Training, Government of India have recommended all states to harmonise the fees payable under the Act. The honorable Supreme Court has held in W.P. (Civil)No. 194/2012-Common Cause V/s High Court of Allahabad that as a normal rule, the charge for the application should not be more than Rs. 50 and per page information should not be more than Rs. 5 and that the information sought does not come under exceptional situations.

5. Appellant during arguments stated that he is not questioning higher charges of Rs. 50 per page, if rules are specified by the public authority to that effect. However he insists for the soft copy along with the hard copy which is being provided by the authority.
6. The PIO Shri. Vasu Usapkar appeared on 02/07/2021 and stated orally that he has replied to the appellant as per the procedures laid down by his department. As per the rules notified by the Directorate of Archives and Archaeology public records are not given in soft copy and records only pertaining to historical situations are provided in soft copy, and the rules for higher charges are notified by his office.
7. The FAA stated in her submission that archival records i.e. public records like Court files (inventory files, execution files, auction files), land records, Notorial deeds, are photographed/scanned, cropped and cleaned on computer, thereafter computer copies of the original records are printed, certified and issued to public for administrative or judicial

purpose. The images of the records are not stored on the computer or any other device, but deleted after printouts of the records are taken as per the applicant's request. All the public records are in hard copy and not in soft copy. That the FAA has acted and passed order dated 29/10/2020 within the rules of archives procedure of servicing and issuance of records to scholars and public as well as the RTI Act.

8. The Commission has carefully perused the records and submission of this case. The Appellant is aggrieved on two grounds:- one- for charges of Rs. 50 per page, notified by the Directorate of Archives and Archeology and two- for not providing him documents in soft copy formats.

9. Here, it is observed that the Directorate of Archives and Archaeology has followed the procedure and levied the charges for furnishing the documents as notified by the authority. Accordingly, PIO vide letter dated 17/09/2020 informed the Appellant that the court files in their repository are in hard copy form and these records are not stored in computer or any other device. It was informed that the records are open to public and had requested the Appellant to visit the directorate during office hours to search and apply for the same as per archival procedure.

10. 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 than 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 extracts 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 in exercise of the delegated power provided under section 27 of the Act; which empowers the State Government to make rules for the Public Authority under its control. These rules have 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.

11. Directorate of Archives and Archeology has notified Government order no. 09/19/79-EDN dated 13/08/1985, order No. 6/6/88/HA-324 dated 25/05/1998 and order No. 6/6/88/HA/Part I 525 dated 15/06/2010 published in official gazette series I No. 13, 24/06/2010 prescribing the rates for digital prints on inkjet paper, A4 size, and digitally processed images on CD Rom. However, it is noted that notification provides discretion to Director of Archives and Archaeology to issue the digitally processed images on CD Rom depending on the condition and legibility of documents.

12. 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. Also the Directorate of Archives and Archaeology has notified the procedure for furnishing the certified copies of the public records wherein there is a provision for providing digital prints on A4 size paper for Rs. 50 per page and digital prints of Gazette notifications for

Rs. 50 per page and there is no provision for providing digitally processed images on CD-Rom.

13. The Honorable High Court of Bombay at Goa Bench in writ petition No. 283/2015 (Vishal Gajanan Naik V/s The State of Goa) has held :-

*"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. "*

14. 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".*

15. Above mentioned judgments of Honorable High Court of Bombay and Honorable Apex Court indicate that the stand taken by the PIO and FAA is in tune with the provisions of the Act, and the rules framed there under. In the light of the above discussion and after considering the facts of this case, the Commission hold that no relief can be granted to the Appellant and the appeal needs to be disposed accordingly.

16. Hence the Commission passes the following order:-

(a) The Appeal is dismissed.

(b) However this order shall not deprive the Appellant to receive the information from the PIO as per the provisions of the Act.

Proceeding stand closed.

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

