

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 153/2020**

Shri. Nilesh Raghuvir Dabholkar,  
r/o. H.No. 275/2 (New), Dabholwada,  
Chapora, Anjuna, Bardez- Goa, 403509.

.....Appellant

V/S

1. PIO/ Mamlatdar of Bardez and  
Administrator of Devalayas,  
Government Building,  
Mapusa Goa. 403507.

2. The Dy. Collector & SDM of Bardez/FAA,  
Government Building,  
Mapusa-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 28/09/2020**

**Decided on: 30/03/2022**

**ORDER**

1. The Appellant, Shri. Nilesh Raghuvir Dabholkar, r/o. H.No. 275/2 (New), Dabholwada, Chapora, Anjuna, Bardez, Goa by his application dated 19/02/2020 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO) of Mamlatdar cum Administrator of Devalayas of Bardez, Mapusa-Goa:-

"Please supply me the following information in respect of Shree. Sidheshwar Devasthan situated at Chapora-Anjuna, Bardez-Goa and registered before Mamlatdar of Bardez Bearing Registration No. 99

Details of the information sought:

- 1) Copy of the presentation of the Budget and the correspondence related to budget filed with the Administrator of Devalayas from 01/04/2019 till date by Managing Committee of Shree. Sidheshwar Devasthan.

2) Copy of the Annual Accounts i.e Receipt & Payment / Income & Expenditure, Inventory Statement and the Balance sheet for the year ending 31/03/2019 filed by Managing Committee of Shree. Sidheshwar Devasthan at the office of the Administrator of Devalayas.”

2. Since the said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Appellant preferred first appeal before the Deputy Collector of Bardez under section 19(1) of the Act on 20/07/2020 being the First Appellate Authority (FAA).
3. The FAA by its order dated 10/09/2020 upheld the reply of the PIO and dismissed the first appeal of the Appellant.
4. Being aggrieved with the order of FAA, the Appellant landed before the Commission by this second appeal under section 19(3) of the Act with the prayer to issue direction to the PIO to provide complete information.
5. Notice was issued to the parties, pursuant to which the PIO, Yogita B. Velip appeared and filed her reply on 20/08/2021. FAA duly served opted not to appear in the matter.
6. I have perused the pleadings, reply, scrutinised the documents on record and considered the written synopsis and oral arguments of the counsel.
7. Learned counsel, Adv. V.V. Matonkar appearing on behalf of Appellant submitted that the PIO has furnished the information to the Appellant in the course of hearing before the FAA on 10/09/2020 and that too incomplete, incorrect and misleading. Therefore the PIO has failed and neglected to provide the information within stipulated time and thus he has violated the provisions of the Act.

He further contended that, only after receiving the notice of FAA, the PIO appraise the Managing Committee of Shree Shidheshwar Devasthan, Chapora about budget and audit, and only to cover up the falsehood, the said Managing Committee hurriedly prepared a single page budget of three years and forwarded in the office of PIO to reply the application.

He further argued that the PIO provided him the audited report prepared by Chetan Prabhudesai, C.R. Prabhudesai & Company, Chartered Accountant dated 04/01/2020 alongwith copy of Balance sheet, Income and expenditure and Receipt and Payment account for the year ended 31/03/2019 alongwith fixed assets. Further according to him, PIO is the custodian of records of the Devasthan under Article 70(13) of the Devasthan Regulation Act and being Administrator of Devasthan of Bardez taluka, he is duty bound to carry out the audit and keep the records with his custody. According to him therefore, PIO evaded his duty which he was entrusted with and prayed to issue direction to the PIO to produce the audit carried out by Administrator of Devalaya.

8. Since the Appellant has referred and cited the provision of Devasthan Regulations, it is necessary to deal with provisions of Article 70 of the Devasthan Regulation which reads as under:-

***Article 70-*** *It shall be incumbent on the Administrator of Talukas (concelho) as Administrator of the bodies of members (mazanias):*

*1) To watch over the execution of this Regulation and of the bye-laws, and over the strict discharge of the duties that belong to their subordinates."*

From the bare reading of above provision it is revealed that the said powers are granted only for the purpose of watching the execution of the regulations which regulates constitution of

Committee viz a viz bye-laws, management etc. Therefore the said provisions are not applicable here in the present case as contemplated By Adv. Matonkar.

9. However on careful analysis, particularly with reference to the Article 257 and 258 of the Devasthan Regulation, which reads as under, it is clear that taking the assistance of a qualified Chartered Accountant is a legitimate procedure laid down to conduct annual audit of the Devasthan Committee under Devasthan Regulation:-

*"Article 257 —The Management of bodies of members (Mazanias) of every Devasthan whose annual income exceeds rupees five thousand shall get the annual accounts audited by a qualified Chartered Accountant to be appointed for the purpose by majority decision of the Managing Committee of the Devasthan:*

*Provided XXXX XXXX*

*Article 258 — The Accounts of the management shall be prepared by calendar years."*

10. It is a matter of fact that, vide letter No. MAM/BAR/RTI/2020/3346 dated 04/09/2020, the then PIO, furnished the copy of Auditor's Report dated 04/01/2020, the Balance sheet of the Shree Siddeshwar Devasthan as at 31/03/2019, Income and expenditure for the year ended 31/03/2019, Receipt and payment Account for the year ended 31/03/2019 and the fixed assets of the Devasthan Committee for the 2017 to 2019.

Considering the above, the Commission is of the view that the PIO has provided the information to the Appellant as is available and exist with public authority.

11. There is one more aspect which also requires to be considered that, the PIO is not the primary holder of the

information. In the present case the information sought for from the PIO is in respect of affairs of the Managing Committee of Shree Siddeshwar Devasthan, Chapora, Bardez-Goa which is not the public authority as mandated under section 2(f) of the Act.

12. In sum and substance, the PIO has furnished all the available information to the Appellant free of cost. The PIO can only facilitate in providing information to the Appellant in case the same is available with the public authority. The PIO further cannot justify or provide the reason or merit or worthiness of the information furnished. Same is clearly outside the perview of PIO under the Act.

The High Court of Andra Pradesh in the case of **Divakar S. Natarajan v/s State Information Commissioner (W.P. No. 20182/2008)** has held that:-

*"16..... The Act has comprehensively defined the word 'information'. It takes in it's fold large variety of source of information, including documents, emails, opinions, press release, models and data materials etc. The common feature of various categories mentioned in the definition is that they exist in one form or the other and the PIO has only to furnish the same, by way of copy or description. In contrast the reasons or basis as to why a particular state of affairs exists or does not exist cannot be treated as a source or item of information."*

13. The grievances of the Appellant that the PIO has failed to furnish the reply and information within stipulated time. Under section 7(1) of the Act, the PIO is required to dispose the request of the seeker within 30 days. Admittedly in the present case the PIO has furnished the information to the Appellant in the course of hearing during the first appeal proceeding i.e on 10/09/2020.

However the delay, being the marginal delay, a lenient approach is adopted.

14. In view of above, since the available information has been furnished to the Appellant, free of cost, I find that the appeal is devoid of any merit. In the result, the relief as prayed for by the Appellant cannot be granted. The appeal is disposed accordingly with the following:-

### **ORDER**

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

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner