

GOA STATE INFORMATION COMMISSION

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Appeal No. 163/2021/SCIC

Shri. Bharat L. Candolkar,
Vady, Candolim,
Bardez-Goa.

.....Appellant

V/S

1. The Public Information Officer,
The Secretary,
Village Panchayat Candolim,
Bardez-Goa.

2. The First Appellate Authority,
Block Development Authority,
Maousa, Bardez-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 27/07/2021

Decided on: 01/04/2022

ORDER

1. The Appellant, Shri. Bharat L. Candolkar r/o Vady, Candolim, Bardez-Goa by his application dated 18/03/2021 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certified copy of NOC dated 19/05/1985 and 04/06/1990 issued from the office of PIO and inspection of the respective documents, file, register etc from the office of Public Information officer (PIO) of Village Panchayat Candolim, Bardez-Goa.
2. The said application was not responded by the PIO, within stipulated period as such deeming the same as refusal, Appellant filed first appeal before the Block Development Officer at Mapusa Goa being the First Appellate Authority (FAA).
3. The FAA by its order dated 06/07/2021 allowed the said first appeal and directed the PIO to furnish the information within fifteen days.

4. Since the PIO failed to comply with the order of FAA, he preferred this second appeal before the Commission under sec 19(3) of the Act.
5. Notice was issued to the parties, pursuant to which PIO Mr. Lawrence Rebello appeared alongwith his advocate S. Prabhudessai and filed his reply on 02/03/2022, the representative of FAA, Shri. Umesh Shetgaonkar appeared and filed reply on 29/09/2021.
6. On perusal of reply to the RTI application and reply filed by the PIO in this proceeding it reveals that, PIO has carried out thorough search of the records, however he is unable to trace the information. During the course of hearing, the PIO produced on record a copy of Inward and Outward register of Panchayat office which indicates the name of the father of Appellant Mr. Laxmman V. Candolkar in the inward register of the year 1985. The Appellant also offered inspection of records to the Appellant at any given time.
7. Adv. A.P. Mandrekar appearing on behalf of Appellant vehemently contended that he is in possession of the Xerox copy of NOC dated 09/05/1985 and NOC dated 04/06/1996 issued by the PIO, and the same was obtained by the father of the Appellant Laxman Vishram Candolkar which is already on record.
8. Adv. S. Prabhudessai appearing on behalf of PIO did not dispute the content of documents on record however submitted that PIO conducted thorough search of the documents but he could not trace the file since the file is more than 35 years old and he could find the entry in the Inward and Outward register.
9. It is a matter of fact that, purported information was not weeded out or destroyed legally as per the order of any authority but the

same is not traceable according to PIO. Xerox copy of the said documents are on record. Considering the content of documents are not disputed by the advocate for the PIO, the relief can be provided if the file is reconstituted with the consent of both the parties in litigation.

10. Adv. A. P. Mandrekar submitted that under the RTI proceedings, the authorities can direct for re-constitution of the records and then furnish the information to the applicant and to support his arguments he relied upon the judgement of High Court of Jharkhand at Ranchi in the case, **The Commissioner (Appeal) of Central Excise and Service Tax Ranchi v/s Information Commissioner CIC, New Delhi & Arns. (L.P. No. 543/2009)** in para No. 3 and 4 reads as under:-

"3. It is not in dispute that the petitioner-appellant originally by moving the application under the [Right To Information Act](#) and Rules, sought information and in appeal it was ordered that record which according to appellant was not traceable be reconstituted and then information be given. It may be true that the record may have travelled from Kolkata to Patna and then to Jharkhand and it is also true that record is pertaining to the files of the year 1992. But, in a case where the information is sought from a department and the department is required to keep the record and was not entitled to weed-out that part of the record from which the information was sought, then the authority certainly can direct to give the information to the applicant, if he is otherwise found entitled to the relief under the Act and Rules referred above and in that process if record is required to be reconstituted then, that is certainly

within the jurisdiction of the authorities under the [Right To Information Act](#) to direct the office to reconstitute the record, which process is also a step taken in furnishing the information to the applicant. Otherwise also the appellant should not have raised any grievance against such direction because it was a duty of the appellant to immediately make effort for reconstitution of the record when they came to know that record is not lying with them and for that purpose, they could have taken help even from the applicant by obtaining certain information or also the requisite documents from the party to whom the original record was related to.

4. Be that as it may be, the direction to reconstitute the record is only a one step in furtherance of providing the information to the applicant under the [Right To Information Act](#).”

11. This Commission in the case of **Shri. Nakul Sagun Narulkar v/s Public Information Officer, Sr. Land Acquisition Officer (North) Mapusa Goa (Penalty No. 46/2011 in Appl. No. 275/SCIC/2010)** has held that:-

"6. I have carefully gone through the records. It appears that the concerned file is missing. It is also mentioned that efforts are being made to reconstitute the said file and action will then be taken accordingly. It appears that the whole problem could be solved if the file is traced or if not the file is reconstituted. The P.I.O. Shri. Kamat states that the file can be reconstituted if Appellant cooperates. Appellant on his part also can cooperate so that the same is done at the

earliest. If this is done the next point is of compensation.....”

12. Applying the similar ratio, it appears that in the present case too the file can be reconstituted. The Appellant has already produced the photocopy of the documents, he has in his custody. Further the Appellant needs to show willingness and cooperate with the process of reconstitution of file with whatever documents available in the office of PIO and the Appellant.

13. In the above circumstances, I direct the PIO, that if file is not traceable, the file shall be reconstituted and therefore the PIO shall provide the information to the Appellant as per his RTI application dated 18/03/2021, within the period of **THIRTY DAYS**. Consequently the appeal stand disposed off.

- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner