

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website:www.gsic.goa.gov.in

Appeal No. 117/2022/SCIC

Joel Nicolau Pinto,
YB-4, Sakhardande Apartments,
Nr. Panaji Church,
Panaji-Goa 403001.

.....Appellant

V/S

1. The Public Information Officer,
Dy. Collector (Revenue),
Collectorate North,
Panaji-Goa 403001.

2. The Additional Collector-I,
North Goa,
The First Appellate Authority,
Collectorate, Panaji-Goa 403001.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 21/04/2022

Decided on: 15/12/2022

FACTS IN BRIEF

1. The Appellant, Joel Nicolau Pinto r/o. YB-4, Sakhardande Apartments, Near Panaji Church, Panaji-Goa by his application dated 01/12/2021 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), Office of Collectorate North Goa, Collectorate Building, Panaji-Goa:-

"Kindly provide me the Exact Provision of Law applicable in the State of Goa, which mandates a conversion sanad as a requirement for erection of Boundary/ Compound wall for an Agricultural property, given that:

a) The Boundary / Compound Wall is being erected for better protection of the agricultural property and its agriculture use.

b) There will be no change in the nature of use of land from one purpose to another.

- c) *The occupant wishes to continue to use the land for the same purpose as before i.e. Agricultural purpose itself.*
- d) *Erection of a boundary/ compound wall for protection of the Agricultural land, does not in itself change the nature of the use of land in any way, and the land will continue to be used for the same purpose as before i.e Agricultural purpose itself.*
- e) *That as there will be no change in the nature of the use of land from one purpose to another, that provisions of Sec 32 & 33 of Goa Land Revenue Code 1968 will not be attracted in any way."*

2. The said application was responded by the PIO on 23/12/2021 in the following manner:-

"With reference to your RTI application dated 01/12/2021 received by this office on 02/12/2021 on the above captioned subject, and to inform you that the Conversion sanad under Section 32(1) of the Goa Land Revenue Code, 1968 is mandatory for the construction of any nature, (refer provision of Section 32 & 33 of the Goa Land Revenue Code 1968).

Hence, your above RTI application stands disposed off in toto.

If you are aggrieved with the above decision, you may prefer an appeal before the First Appellate Authority i.e Additional Collector-I, North Panaji-Goa."

3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Additional Collector-I North Goa District at Panaji-Goa being the First Appellate Authority (FAA).

4. The FAA by its order dismissed the first appeal on 22/03/2022, upholding the reply of the PIO.

5. Feeling aggrieved and dissatisfied with the order of the FAA, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act.
6. Notices were issued to the parties, pursuant to which representative of the PIO, Smt. D.E. D'costa appeared and placed on record the reply of the PIO on 21/06/2022. Smt. Priya M. Parab representative of the FAA appeared on 20/07/2022 and placed on record the reply of the FAA.
7. I have perused the content of appeal memo, replies, written submissions and scrutinised the material on records.
8. A perusal of the RTI application filed under Section 6(1) of the Act dated 01/12/2021, which is produced in para No. 1 hereinabove, it reveals that the Appellant is seeking exact provision of law, which mandates a conversion sanad as a requirement for erecting of Boundary / compound wall for an Agricultural property.

The PIO categorically replied and informed the Appellant to refer provision of Section 32 and 33 of Goa Land Revenue Code 1968 and also informed the Appellant that the conversion sanad under Section 32(1) of the Goa Land Revenue Code 1968 is mandatory for the construction of any nature.

9. From the above facts, the point for determination before the Commission is *"whether Appellant is entitled for information that is an interpretation of law /Act under the RTI Act?"*
10. Therefore, it is relevant to analyse the provision 2(f) and 2(j) of the Act, which reads as under:-

"2. Definitions. – *In this Act, unless the context otherwise requires, --*

(f) *"information" means any material in any form, including records, documents, memos, e-mails,*

opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(j) *"right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to__*

(i) inspection of work, documents, records;

(ii) taking notes extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"

Bare reading of the above, it is clear that, information as defined in Section 2(f) means details or material available with the public authority. An analysis, right relates to information that is held by or under the control of any public authority. If the public authority does not hold information or if the information cannot be accessed by it under Section 2(f), the public authority cannot provide the same under the Act. The PIO can only facilitate in providing the information to the Appellant if it is available in material form. The Act does not make it obligatory on the part of

the public authority to create information for the purpose of its dissemination.

11. On perusal of the content of pleading and prayer clause, it seems that instead of obtaining the information, the Appellant is seeking interpretation of law/ Act from the public authority. The expression 'opinion' and 'advice' is defined under Section 2(f) of the Act refers to opinion, advice which forms part of material such as documents, records and so on. It would be wholly incorrect to read these expressions to mean that, the Appellant can demand from the PIO, its opinion, interpretation or advice in the matter, that suit the purpose of the Appellant. Nothing which is intangible such as interpretation, opinion, advices, explanations, reasons can be said to be included in the definition of information in Section 2(f) of the Act.

12. While considering the extent and scope of information that could be dispensed under the Act, the Hon'ble Supreme Court in case of **Central Board of Secondary Education & another V/s Aditya Bandopadhyay & Ors. ((2011) 8, SCC 497)** held as under:

"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."

13. In the present case, instead of seeking information, the Appellant had sought the exact provision of law applicable in the State of Goa which mandates a conversion sanad as a requirement for erection of compound wall for an agricultural property. The PIO is not obliged to give explanation to queries pertaining to the existing Act. An interpretation of Act is the correct understanding of the law. This process is commonly adopted by the Courts for determining the exact intention of the Legislature. The PIO acted diligently and replied to the RTI application on 23/12/2021 and categorically informed the Appellant to refer provision of Section 32 and 33 of the Goa Land Revenue Code 1968. The Commission is therefore of the view that, there is no denial of information by the PIO.

14. Since the information sought for by the Appellant is not in existence and available, the question of giving any direction to furnish the same does not arise.

15. In view of the foregoing discussion, the appeal lacks in merit and deserves to be dismissed. The appeal is dismissed accordingly.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner