

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 125/2021/SCIC**

Shri. Pedrito Misquitta Alias  
Shri. John Peter Misquitta,  
Souza Vaddo, Candolim,  
Bardez-Goa 403515.

-----Appellant

**v/s**

1. The State Public Information Officer,  
Directorate of Panchayat,  
Panaji-Goa 403001.

2. The Dy. Director (Administration) &  
The First Appellate Authority,  
Directorate of Panchayat,  
Panaji-Goa 403001 .

-----Respondents

**Shri Vishwas Satarkar** - State Chief Information Commissioner

**Filed on:- 22/06/2021**

**Decided on: 11/08/2022**

**FACTS IN BRIEF**

1. The Appellant, Mr. Pedrito Misquitta @ John Peter Misquitta r/o. H.No. 234, Souza Vaddo, Candolim, Bardez-Goa by his application dated 17/08/2020 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought information from the Public Information Officer (PIO), the Directorate of Panchayats, Panaji-Goa.
2. Since the said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Appellant filed first appeal on 27/09/2020 before the Deputy Director (Administration) at Panaji-Goa being the First Appellate Authority (FAA).
3. According to the PIO, during the pendency of first appeal, she furnished the information to the Appellant by Registered post on 06/11/2020.

4. The FAA by its order upheld the reply of the PIO and dismissed the first appeal on 08/02/2021.
5. Being 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 the PIO, Smt. Neha H. Bandekar appeared and filed her reply on 29/10/2021. The FAA duly served opted not to appear in the matter.
7. On going through the appeal memo of this second appeal it is an admitted fact that, the Appellant has received part of the information and that he is not disputing the information on point No. 01, 02, 03, 04, 06, 07, 08, 09, 10, 14, 15, 16 and 20 and therefore the controversy remains only with regards to information at point No. 05, 11, 12, 13, 17, 18 and 19 of the RTI application.
8. It is the case of the Appellant that, on the basis of the complaint filed by the Appellant before the Secretary, Village Panchayat Candolim, Bardez-Goa, the Panchayat was pleased to revoke construction licence issued to Shri. John Louis Fernandes and Smt. Nellie Fernandes for relocation of existing soakpit and septic tank in survey No. 44/2 of Candolim Village on the ground of misrepresentation.

By anticipating an appeal would be filed before the Directorate of Panchayat, Panaji who is the Appellate Authority under Goa Panchayat Raj Act, 1994 and also anticipating that ex-parte stay would be sought, the Appellant filed a caveat before the Directorate of Panchayat in triplicate under section 148(A) of Civil Procedure Code.

Further, Appellant contended that, Shri. John Louis Fernandes and Smt. Nellie Fernandes refused to accept the caveat application from the postal authority and fraudulently mentioned in their appeal, that they are not in receipt of any caveat and the Presiding Officer namely Additional Director of Panchayat-I without verification, granted Ex-parte stay to them inspite of a caveat, thus violating the law. Upset over the same, the Appellant sought information from the PIO by his RTI application dated 17/08/2020 to know the truth of the matter.

However, the Appellant alleged that, the PIO failed to provide the information within stipulated time and off late the PIO provided incomplete information during the pendency of first appeal. Further according to him, the FAA also erroneously upheld the reply of the PIO and dismissed the first appeal, therefore he approached this forum by this second appeal.

9. On the other hand, the PIO through her reply dated 29/10/2021 contended that on receipt of the RTI application, she provided available information to the Appellant on 06/11/2020 by Registered Post as it was the peak hours of COVID-19 in the state of Goa and by additional reply, transferred the RTI application to the another PIO, the office of Additional Director of Panchayat on 16/09/2021. The PIO of the Additional Director of Panchayat has directly furnished the information to the Appellant on 28/10/2021 and to support her claim she produced on record the copy of Note, provided by the Additional Director of Panchayat-I, addressed to PIO dated 28/10/2021.
10. On perusal of the additional reply filed by the PIO before the first appeal dated 22/12/2020, it is clear that the PIO furnished all the additional information as annexure-B and annexure-C, thus replying the remaining queries with regards to the information on point No. 05, 11, 12, 13, 17, 18 and 19.

11. Moreover, on perusal of the order of the FAA dated 08/02/2021, particularly the operative part of the said order reads as under:-

*"I have also gone through the pleading of the Appellant in the appeal memo, Documents on records and also considered the arguments put forth by the Appellant and I am of the opinion that the PIO has duly replied to the RTI application as per the records available with the Directorate of Panchayats and hence the first appeal filed by the Appellant before the First Appellant Authority stands disposed off as the information available in the records is already furnished free of cost to the Appellant.*

*The Proceeding is concluded.*

*Pronounced in open court. "*

12. Though it is the contention of the Appellant that, the information provided to him is incomplete, the Appellant in his appeal memo has not clarified as to what would constitute the complete information. The PIO has categorically stated that available information has been furnished to the Appellant. The FAA in his order dated 08/02/2021 also reiterated that available information in the record of the Directorate of Panchayat has been furnished to the Appellant.

13. The PIO is required to supply such material in any form as held by the public authority. He is not expected to respond to the queries made in different form, he can only facilitate in providing the information, however, he cannot either confirm or deny some perception of the Appellant.

14. The role of the PIO is information provider and he cannot be treated as creator of the information. He cannot be held responsible for the merit or accuracy of the information provided or to furnish

the reasoning of the decision taken by the competent authority. The High Court of Andhra Pradesh in the case of **Divakar S. Natarajan v/s State Information Commissioner (W.P.No. 20182/2008)** has held that:-

*"16. Before undertaking further discussion as to the legality or otherwise of the order passed by the respondents, the distinction between 'information' on the one hand and the 'reason' for existence or non-existence of a particular state of affairs on the other hand, needs to be noticed. The Act has comprehensively defined the word 'information'. It takes in its fold large variety of sources 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 sources or item of information."*

15. In another judgement, the Delhi High Court in **Hansi Rawant & Anrs. v/s Punjab National Bank & Ors. (LPA 785/2012)** has held as under:-

*"4. Before the learned Single Judge also, the contention of the appellants was that the information given is not correct. The learned Single Judge went through the RTI application of the appellants and the response thereto and found that the information sought had already been furnished. The learned Single Judge has further observed that the only obligation of the respondent*

*Bank, from which information had been sought, under the RTI Act, was to give information available and no further and the said obligation had been fulfilled.*

*6. The proceedings under the RTI Act do not entail detailed adjudication of the said aspects..... The purport of the RTI Act is to enable the appellants to effectively pursue the said dispute, the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished.”*

16. In the present case, the PIO furnished the information, however, the Appellant is not satisfied with the same, as the PIO did not disclose the reason as to why Additional Director of Panchayat-I at Panaji, Goa, granted ad-interim ex-parte stay to his opponents inspite of filing a caveat well in advance before him.

Here in this case, the matter has been decided by the competent authority therefore the PIO has rightly communicated the decision. The PIO further cannot justify or provide reason for decision taken by the Additional Director of Panchayat –I, as it is clearly outside the purview of the PIO under the Act. This can be matter for agitation before concerned authority and not under this forum. If the Appellant feels that any official is not performing his duty in proper manner, he can approach the concerned competent authority and redress his grievance on the basis of the information furnished to him.

17. Another plea of the Appellant that, direction be issued to Vigilance Directorate to initiate Inquiry against, Senior Stenographer, Smt. Teja Simepurushkar for failing to place the caveat application in concerned file prior to taking leave.

However no powers are granted to the Commission to deal with such matter. The Commission is constituted under the Act with powers and more particularly under section 18, 19 and 20 of the Act. Such powers consist of providing information held in any form and in case non-compliance of the said mandate without any reasonable cause, then to penalise the PIO. Additional prayers like directing the Vigilance Department to conduct the inquiry against stranger who is not a party in this appeal is certainly ultra virus and amounts to abuse of process of law.

18. In view of above, since the available information has been provided to the Appellant, free of cost, I find no grounds to impose penalty against the PIO as prayed by the Appellant. The appeal is devoid of any merit and therefore the same is disposed off with following:-

## **ORDER**

- The appeal stands dismissed.
- Proceedings closed.
- Pronounced in open proceedings.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner