

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 179/2020**  
**Appeal No. 29/2021/SCIC**  
**Appeal No. 54/2021/SIC**

Shri. Jawaharlal T. Shetye,  
H.No. 35/A, Ward No. 11,  
Khorlim, Mapusa-Goa.  
403507.

.....Appellant

V/S

1. Public Information Officer,  
Shri. Vyankatesh Sawant,  
Mapusa Municipal Council,  
Mapusa-Goa. 403507.

2. First Appellate Authority/The Chief Officer,  
Mapusa Municipal Council,  
Mapusa-Goa. 403507.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

Appeal No. 179/2020    Appeal No.29/2021/SCIC    Appeal No.54/2021/SIC

Filed on: 27/10/2020    Filed on: 05/02/2021    Filed on: 10/03/2021

**Decided on: 14/03/2022**

**FACTS IN BRIEF**

1. Above mentioned three appeals filed by the Appellant under sec 19(3) of Right to Information Act, 2005 (hereinafter to be referred as 'Act') with identical parties giving rise to common issue, on the request of PIO are heard together and decided by a common order.
2. For convenience, I refer to the fact of the leading case viz appeal No. 179/2020, Shri. Jawaharlal T Shetye v/s Public Information Officer, Mapusa Municipal Council and Another.
3. The entire exercise in this proceeding got initiated by the RTI application dated 05/12/2019 filed under section 6(1) of the Act thereby seeking information on 16 points from the Public Information Officer (PIO) of Mapusa Municipal Council at Mapusa, Bardez Goa. The Appellant therefore filed exactly the same application with the date as 06/02/2020.

4. 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 Chief Officer, Mapusa Municipal Council at Mapusa Goa being First Appellate Authority (FAA).
5. The FAA by its order dated 30/09/2020 allowed said first appeal and directed the PIO to furnish the desired information to the Appellant, free of cost within 15 days.
6. However, since the PIO failed and neglected to comply the order of FAA, the Appellant landed before the Commission by this second appeal under section 19(3) of the Act.
7. Notice was issued to the parties, pursuant to which the PIO, Shri. Vyankatesh Sawant appeared and filed his reply on 26/04/2021. FAA duly served did not appear and file his reply in the matter.
8. I have perused the pleadings, reply and scrutinised the documents on record.
9. According to PIO, all these three appeals arise by one RTI application dated 05/12/2019 and the same has been replied on 03/06/2021 thereby furnishing available information to the Appellant, part of the information is denied being exempted and part of the application has been transferred to another PIO under section 6(3) of the Act.
10. The records reveals that, the PIO replied to the RTI application on 03/06/2021 in the following manner:-

Sr.No.	Questions	Answer
1	Furnish the name and designation of the person who has drafted the above NOTE dated 21/11/2019 for the female employees which are signed by 15 female	Information sought by you cannot be furnished to you since the same comes under the purview of exemption from disclosure under Section 8(1)(h) of RTI Act,

	employees of Mapusa Municipal Council and when it was drafted? Furnish me the date and time of drafting the same.	2005, the matter is under investigation with Police Department and also sub-judice before the Hon'ble High in (criminal w.p. no. 256/2019)
2	Furnish the C.C.T.V Camera footage of the 21/11/2019 and 25/11/2019 of Mapusa Municipal Council which is already submitted to the Mapusa Police Station for conducting detailed inquiry under the provision of law.	You may refer the information furnished at Sr.No. 1 above.
3	After preparing and tying the note dated 21/11/2019, whether the said note was given to all the 15 female employees for reading the same before putting their signatures on the said note and in case the said note was not given to all the 15 female employees whether the Head Clerk or any other employees of Mapusa Municipal Council has read over this note dated 21/11/2019 to all the 15 female employees before obtaining their signatures on the said note, and on which PC it was typed and inform me the name of your employee entrusted the duty of tying the same.	-----do-----
4	On 21/11/2019, how much time Mr. J.T. Shetye was present in the office building of Mapusa Municipal Council since 9.30 a.m. till what time which is captured on your CCTV surveillance cameras on the day 21/11/2019.	-----do-----

5	Furnish the names of all the female employees reporting for office after 9.30 am on 21/11/2019 mentioning their exact time of their reporting on 21/11/2019 and at what time Mrs. Siddhi Kamat reported on duty on 21/11/2019 and normally at what time she is reporting the office duties every day.	-----do-----
6	Whether Mr. J.T. Shetye was standing or sitting on the chair near cash counter and clicking the photographs of female employees on 21/11/2019 as reported in the Police complaint dated 25/11/2019 and in the office note dated 21/11/2019.	-----do-----
7	How many photos have been clicked by Mr. J.T. Shetye on 21/11/2019, giving exact timings of clicking the photographs of female employees and whether any photo of any of your male employees are clicked by Mr. Shetye on 21/11/2019.	-----do-----
8	Whether the office building of Mapusa Municipal Council is private property or it is a public place and who is the owner of the building premises of Mapusa Municipal Council as per the form D Ownership document.	This building belongs to Mapusa Municipal Council and it is a public place.
9	Furnish the certified copies of all the 'D' Forms property card registering the name of Mapusa Municipal Council as owner.	Copies enclosed.
10	Furnish the names of the female employees who has raised their objection to Mr. J.T. Shetye informing him not to click their photos on his mobile phone on 21/11/2019, which was	You may refer information furnished at Sr.No. 01 on prepage.

	turned down by him and clicked their photographs on his mobile phone.	
11	Furnish the list of names of all your female employees going and meeting the Chairperson, the Chief Officer and the local MLA on 21/11/2019 and placing their grievance of clicking their photos by Mr. J.T. Shetye giving exact time.	-----do-----
12	Total how many notes were drafted and how many notes were prepared on 21/11/2019 and how many notes signatures of the female employees were obtained by the authorized female employees.	Information sought by you is in the form of question and hence do not come under definition of information as held by Hon'ble High Court W.P. No. 419 of 2007 in Dr. Celsa Pinto judgement.
13	Kindly furnish to me the administrative reason for the delay in filing police complaint dated 25/11/2019 against Mr. Jawaharlal T. Shetye.	You may refer information furnished at Sr.No. 01 on prepage.
14	Furnish the names of all the female employees refusing to sign the said office note dated 21/11/2019 and the reason for not signing the same.	-----do-----
15	Furnish the certified copies of all the Police complaints drafted by the Head Clerk Nazeera Sayed and lodged with Mapusa Police Station duly signed by her during the period since Jan. 2017 till date and inform me their present status report of registering the crime by Mapusa Police Station.	Information sought by you is not available in the record of Mapusa Municipal Council, however your application is transferred under Section 6(3) of RTI Act. 2005 to PIO, Mapusa Police Station (copy enclosed).
16	Furnish certified copies of all the Police complaints drafted by the Chief Officer Mr. Clen Madeira and lodged with Mapusa Police Station duly signed by him during his tenure as the Chief Officer of Mapusa Municipal	

	Council and furnish to me their present report of registering any crime by the Mapusa Police Station.	
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11. On perusal of the application of the Appellant, it is seen that the Appellant had attached a photocopy of the NOTE dated 21/11/2019 signed by the 15 female employees of Mapusa Municipal Council which is addressed to (i) The Chairperson, Mapusa Municipal Council, (ii) The Chief Officer, Mapusa Municipal Council and (iii) Hon'ble MLA, Mapusa Constituency, Mapusa Goa.
12. Further, on perusal of the said note dated 21/11/2019, it reveals that, 15 lady employees of Mapusa Municipal Council alleged that on 21/11/2019, the Appellant was found clicking photo of lady employees without their consent in office of Mapusa Municipal Council, Mapusa thus causing an embarrassment to lady staff and in the said note they apprehend that, Appellant may misuse the said photos. They also alleged that it is invasion of their privacy and demand action against the Appellant failing to which they threatened to agitate in front of the Municipal office at Mapusa Goa.
13. The RTI application dated 05/12/2019, indicate the Appellant is seeking information similar to the kind of cross examination. Many points raised therein indicate that the Appellant, is asking questions to the PIO and assuming the answer, is even asking supplementary questions. It is therefore necessary to look into the statutory provisions of what is "information". Section 2(f) of the Act reads as under:-

*"2(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."*

The Act, clearly defines, as to what constitute the "information".

14. Let us now, for the sake of discussion, take point No. 2 of the application which is mentioned at para 10 of this order. On careful reading of the point /question framed by the Appellant it is noticed that the Appellant is himself stating that CCTV footage is already submitted to Mapusa Police Station, and is still seeking the same from the PIO. It is therefore difficult to comprehend, as to how the footage "already submitted" according to Appellant, can be sought from the PIO.
15. Similarly, at point No. 6, the Appellant seeks to know whether J.T. Shetye, (Appellant himself) was standing or sitting on the chair near cash counter and clicking the photographs..... The Commission is of the considered opinion, that seeking such queries under the Act is wasting the resources of the public authority. Such queries do not form part of "information" as defined in the Act, and no public authority is expected to respond to such a point.
16. While considering the extent and scope of information that could be dispensed under the Act, the Hon'ble Supreme Court in the case of **Central Board of Secondary Education & another V/s Aditya Bandopadhyay (Civil Appeal no.6454 of 2011)** as held that:

*"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.*

*37..... Indiscriminate and impractical demands or directions under [RTI Act](#) for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. [The Act](#) should not be allowed to be misused or abused, to become a tool to*



*obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."*

17. As far as information on point No. 1 to 7, the PIO has rejected the request under section 8(1)(h) of the Act as the matter is under investigation with Police Department and also sub-judice before the Hon'ble High Court of Bombay at Goa bench in the case Cr.W.P. No. 256/2019 wherein Appellant is a petitioner in the said proceeding.

18. As far as information on point No. 8 and 9 is concerned, the information has been provided to the Appellant. As regards to information on point No. 10,11,12,13 and 14, the information is self explanatory and accessible in the note itself which is produced by the Appellant while seeking the information. Moreover, if the information sought does not form part of office records in material form, as defined in the Act, it would squarely be rejected.

Information as regards to point No. 15 and 16, the same has been transferred to PIO, Mapusa Police Station under section 6(3) of the Act, directing the PIO of Mapusa Police Station to furnish the information directly to the Appellant.

19. Considering the above position, I am of the opinion that, the Appellant has unnecessarily stretched the issue and filed multiple RTI applications, first appeals and these second appeals before the Commission with unrealistic expectations.
20. The right conferred by the Act should be exercised carefully and responsibly. It appears that the Appellant has been filing multiple stereotypes appeals to built pressure on the public authority and opponents on same subject matter. It further appears that Appellant has apparently some grievance with the public authority and to help redress the said grievance, the Appellant has been making use of the Act by filing multiple applications, and thereafter multiple appeals. This cannot in anyway substitute different roles of the public authority. Under this Act, the public authority and impliedly PIO has to disseminate information sought for by the citizen under the reasonable restriction provided in the Act. Though the statute does not provide for limitation, that is number of RTI application to be filed by a citizen on the same subject, there cannot be a free ride to the habitual applicant. It cannot be anybody's case that one single citizen should monopolise the time and resources of the public authority under the Act.

The High Court of Rajasthan in **Hardev Arya v/s Chief manager (Public Information Officer) & Ors (C.W.P. No. 10828/2012)** has held that:-

*"11. It is true that Parliament has enacted the Right to Information Act for transparency in administration, so also affairs of the State so as to strengthen the faith and trust of the people in the governance of the Country. Therefore, the Act is a vital weapon in the hands of the citizens. At the same time, however this may not be lost sight of that no law shall be allowed to be wielded unlawfully so as to put it to abuse or misuse....."*

21. Hon'ble Supreme Court in **Institute of Chartered Accountant v/s Shaunak H. Satya (Civil A. No. 7571/2011)** has held that:-

*"One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of RTI Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources."*

The Appellant in a similar manner, filed another application seeking exactly the same details, vide request dated 06/02/2020, which in like manner resulted in the same outcome. Another application came to be filed by the Appellant dated 16/10/2020, inter-alia seeking the same information which also resulted in similar outcome and appeals. Appeals mentioned in the title, combined together, therefore indicate a synonym process and seek the same prayers against the RTI applications mentioned hereinabove.

In view of the above backdrop and considering the fact and circumstances as discussed above, I find no merit in the appeals and consequently the appeals referred in the title are disposed off with the following:-

## **ORDER**

- The appeals are dismissed.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

sd/-

**(Vishwas R. Satarkar)**  
State Chief Information Commissioner