

GOA STATE INFORMATION COMMISSION

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Appeal No. 279/2021/SCIC

Mr. Walter Lobo,
H.No. 5/139, Umta Vaddo,
Calangute, Bardez-Goa.

-----Appellant

v/s

1. The Public Information Officer,
Office of SDPO (North),
Porvorim, Bardez-Goa.

2. The First Appellate Authority,
Shobhit Saksena, SP (North),
North District Headquarters,
Porvorim, Bardez-Goa.

-----Respondents

Shri Vishwas Satarkar - State Chief Information Commissioner

Filed on:- 08/11/2021

Decided on: 03/06/2022

FACTS IN BRIEF

1. The Appellant, Mr. Walter Lobo, r/o. H. No. 5/139, Umta Vaddo, Calangute, Bardez-Goa vide his application, dated 14/07/2021 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought certain information from the Public Information Officer (PIO), Office of Sub-Divisional Police Officer, Porvorim, Bardez-Goa.
2. The said application was responded by the PIO on 27/07/2021 in the following manner:-

Sr. No.	Information Sought	Information Furnished
a.	As per Point No. a	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.
b.	As per Point No. b	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.
c.	As per Point No. c	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.

d.	As per Point No. d	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.
e.	As per Point No. e	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.
f.	As per Point No. f	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.
g.	As per Point No. g	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.
h.	As per Point No. h	The information sought by you does not come under the purview of Section 2(f) of RTI Act, 2005.

3. Dissatisfied with the reply of the PIO, the Appellant preferred first appeal before the Superintendent of Police, North District Headquarters, Porvoim, Goa on 20/08/2021 being the First Appellate Authority (FAA).
4. The FAA by its order upheld the reply of the PIO and dismissed the first appeal on 21/09/2021.
5. Aggrieved with the order of FAA, the Appellant landed before the Commission with this second appeal under section 19 (3) of the Act, with the prayer to issue direction to the PIO to furnish the information free of cost and to impose the maximum penalty upon the Respondents.
6. Notice was issued to the parties, pursuant to which the APIO, Police Inspector of Calangute Police Station, Shri. Laxi Amonkar appeared and placed on record the reply of the PIO on 21/03/2022. Representative of the FAA appeared on 06/12/2021, however opted not to file any reply in the matter.
7. According to the Appellant, through his RTI application, he sought information with regards to any complaint received by Calangute / Saligao Police Station on or after 08/07/2021 against him and any

FIR has been registered against him to that effect and other relevant information pertaining to the said alleged complaint. However the PIO refused to divulge the information with the reasons that, information sought by him does not come under the purview of section 2(f) of the RTI Act 2005.

8. On the other hand, the PIO contended that, on receiving the RTI application, he immediately forwarded the same to APIO i.e Police Inspector of Calangute Police Station, Nalasco Raposo and another APIO, Police Inspector of Saligao Police Station, Shri. Milind Bhumbar and on receipt of the information from APIO's he replied to the Appellant vide letter No. SDPO/POR/RTI-158/291/2021 dated 27/07/2021.

Further according to him, the information sought by the Appellant was in question form hence Appellant was informed that the information sought by him does not come under the purview of section 2(f) of the Act.

9. Perused the pleadings, reply and scrutinised the documents on records. Since non of the parties remained present for hearing, I dispose of the appeal on the basis of available records.
10. On perusal of the reply to the RTI application dated 27/07/2021 which is reproduced in para No. 2 hereinabove, it reveals that the information has been denied as the same does not come under the purview of section 2(f) of the Act.

It is therefore relevant to go through section 2(f) of the Act, which 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;"

A bare reading of the above definition it reveals that a citizen can seek information from any public authority in respect of wide range of material, apart from what is kept, stored and recorded traditionally in the official files and record, even the information stored in electronic form can also be accessed.

11. While analysing another provision of section 2(j) of the Act which reads as under:-

"2(j)- (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;"

The wording of the above provision implies that, the information can be something which is held or under the control of any public authority and can be something that is available in material form.

12. Access to information under section 3 of the Act is rule. The purpose of the Act to promote transparency and accountability in

working of public authority and same cannot be defeated merely on the ground that information has been sought in the questionnaire form. The Act nowhere contemplate that prefixes such as why, what, when and whether cannot be used in the RTI application. The PIO is duty bound to provide the information that is available in the official records of the public authority. He cannot impose new set of non-existent exemption to deny the information. Hon'ble High Court of Delhi in the case of **State Bank of India v/s Mohad. Shahajan (W.P. No. 9810/200)** has held as under:-

"22. The very object and purpose of the RTI Act is to make the working of public authorities transparent and accountable. For the purpose of the RTI Act, all information held by a public authority is accessible except to the extent such information is expressly exempted from disclosure as provided in the RTI Act itself. In other words, unless the public authority is able to demonstrate why the information held by it should be exempt from disclosure, it should be normally be disclosed. The burden therefore is entirely on public authority to show why the information sought from it should not be disclosed."

Therefore in my considered opinion, the PIO has denied the information without any basis in law. The Commission see no reasonable cause for denial of information.

13. On meticulous reading of the order passed by FAA dated 21/09/2021, it reveals that he immensely relied upon the judgement of High Court of Bombay in the case **Dr. Celsa Pinto v/s Goa State Information Commission (LNIND 2008 GOA 51)**. In that case the court considered the situation where the applicant is seeking justification as to why the post of Curator was not filled up

by promotion and why the Librarian from the Engineering College was not considered for promotion. And considering the fact and circumstances of that case the court observed as under:-

"8. The Public Information Authorities cannot expect to communicate to the citizen the reason why certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information".

Therefore the court observed that the applicant cannot seek the justification of information provided and same cannot be classified as information.

Here in this case the PIO outrightly refused to disclose the information since it is in questionnaire form. The FAA dispose the first appeal upholding the view of the PIO. It appears that the FAA did not apply his judicious mind and mechanically endorsed the view expressed by PIO. There is no provision anywhere in the Act, to the effect that information can be refused to be disclosed if information sought is in questionnaire form.

14. Hon'ble Supreme Court in the case **Central Board of Secondary Education & another V/s Aditya Bandopadhyay (Civil Appeal no.6454 of 2011)** has observed as under:

"12. Section 3 of RTI Act provides that subject to the provisions of this Act all citizens shall have the right to information. The term 'right to information' is defined in section 2(j) as the right to information accessible under the Act which is held by or under the control of any public authority. Having regard

to [section 3](#), the citizens have the right to access to all information held by or under the control of any public authority except those excluded or exempted under the Act. The object of the Act is to empower the citizens to fight against corruption and hold the Government and their instrumentalities accountable to the citizens, by providing them access to information regarding functioning of every public authority. "

15. In an another judgement Hon'ble Supreme Court in the case of the **Institute of Chartered Accountant of India v/s Shaunak H. Satya & Ors. (C.A. No. 7571/2011)** in which it is held that:-

"25..... Public authorities should realize that in an era of transparency, previous practices of unwarranted secrecy have no longer a place. Accountability and prevention of corruption is possible only through transparency. Attaining transparency no doubt would involve additional work with reference to maintaining records and furnishing information. Parliament has enacted the [RTI Act](#) providing access to information, after great debate and deliberations by the Civil Society and the Parliament. In its wisdom, the Parliament has chosen to exempt only certain categories of information from disclosure and certain organizations from the applicability of the Act."

16. Considering the above, I find that the purported information has been denied on wrong footing and same is not tenable by law. In the backdrop of the above fact, I find merit in the appeal and consequently the present appeal is allowed with the following:-

ORDER

- The PIO, Sub-Divisional Police Officer, Porvorim, Bardez-Goa is directed to provide the information free of cost to the Appellant as per his RTI application dated 14/07/2021 within **FIFTEEN DAYS** from the receipt of the order.
- Proceedings closed.
- Pronounced in open court.
- Notify the parties.

SD/-

(Vishwas R. Satarkar)

State Chief Information Commissioner