

GOA STATE INFORMATION COMMISSION

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Appeal No. 53/2022/SCIC

Shri. Savio J.F. Correia,
SS-1, Newton Apartments-II,
Mangor Hill, Vasco-da-Gama,
Goa 403802.

.....Appellant

V/S

1. The Public Information officer,
Office of the Administrator of Comunidades,
South Zone, Old Collectorate Building,
Margao-Goa.

2. The First Appellate Authority,
The Additional Collector-I of South Goa,
Collectorate of South Goa,
Margao-Goa 403601.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 17/02/2022

Decided on: 19/08/2022

FACTS IN BRIEF

1. The Appellant, Shri. Savio J.F Correia, r/o. SS-1, Newton Apartment-II, Mangor Hill, Vasco da Gama, Goa by his application dated 09/08/2021 filed under sec 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 the Administrative of Comunidades, South Zone at Margao, Goa.
2. The said application was responded by the PIO on 03/09/2021 in the following manner:-

"With reference to your application dated 09/08/2021, on the above cited subject and in this connection you are requested to appear in this Office on 17/09/2021 during Office hours and inspect the files."

3. Not satisfied with the reply of the PIO, the Appellant filed first appeal before the Additional Collector -I, South Goa District at Margao Goa being the First Appellate Authority (FAA).

4. The FAA by its order dated 15/11/2021 allowed the first appeal and directed the PIO to provide the information within 30 days from the date of order.
5. Since the PIO failed and neglected to comply the order of the FAA and provided the information, the Appellant landed before the Commission with this second appeal under sec 19(3) of the Act.
6. Notice was issued to the parties, pursuant to which, the representative of PIO, Smt. Rekha Kadam appeared on 06/04/2022 and collected the copy of appeal memo. The representative of the FAA, Mr. Walter Rodrigues appeared, however opted not to file any reply in the matter.
7. On going through the application filed under section 6(1) of the Act, it reveals that the Appellant has sought copy of records and proceedings of all complaints of illegal construction/ encroachment on Comunidade land pending before the Administrator of Comunidade of South Zone, Margao as on date and particularly copy of proceedings/ roznama sheet and reasons for delay in execution of the demolition order.
8. On meticulous reading of the said RTI application it is also revealed that, the Appellant sought the information without specifying the date and year of generation of information. Neither mentioned the case number, cause title, date of complaint or date of disposal. At the first instance, in order to get the information from the public authority, the Appellant has to specify the information as required under section 6(1) of the Act.
9. Secondly, the Code of Comunidade came into existence in the form of enactment in Goa in the year 1961. It is impracticable to search the records of last 60 years and then to furnish the information to the Appellant. Where the request for the information is clear, specific

and unambiguous, it would be possible for the public authority to identify the material on record with respect to the subject. This kind of request cannot be treated to fall within the ambit of 'information' as defined under the provisions of section 2(f) of the Act.

10. In the present case, the Appellant is seeking the copy of the records and proceeding including the Roznama sheet from the office of Administrator of Comunidade, South Zone at Margao.

When an information sought for pertains to its judicial proceeding which are pending for decision and action related thereto is secretive in nature. There is no dispute that the Administrator of Comunidade of South Zone Margao is creation of Code of Comunidade 1961 and entrusted with certain quasi-judicial powers. Under Article 119 of the Code of Comunidade the independent administrators of the Comunidade are administrative magistrates and entrusted certain powers under article 125 of the said Code including to decide the applications, complaints, appeals with regards to encroachment on the lands of Comunidades and exercise disciplinary powers in terms of law and empowers to impose the penalty. In nutshell the Administrator of Comunidade South Zone Margao is a quasi-judicial authority.

11. Once it is established that certain information requested by the Appellant is related to a quasi-judicial proceeding, RTI Act cannot be invoked to access the information related to that proceeding. The quasi-judicial authority must function with total independence and freedom. The RTI Act is not intended to come in to conflict with a judicial decision regarding disclosure of information.

12. A full bench of Central Information Commission in the case of **Rakesh Kumar Gupta v/s Income Tax Appellate Tribunal (ITAT) (CIC/AT/A/2006/00586)** has held that:-

*"49. It is our conclusion, therefore, that given that a judicial authority must function with total independence and freedom, should it be found that an action initiated under the RTI Act impinges upon the authority of that judicial body, the Commission will not authorize the use of the RTI Act for any such disclosure requirement. Section 8(1) (b) of the RTI Act is quite clear, which gives a total discretion to the court or the tribunal to decide as to what should be published. **An information seeker should, therefore, approach the concerned court or the tribunal if he intends to have some information concerning a judicial proceeding and it is for the concerned court or the tribunal to take a decision in the matter as to whether the information requested is concerning judicial proceedings either pending before it or decided by it can be given or not.**"*

13. The Central Information Commission in the case **Mr. R. K. Morarka v/s Central Bank of India (CIC/908/ICPB/2007)** has held that:-

"This Commission has consistently taken a view that, if the information sought relates to a pending proceeding before a competent court / tribunal, then the said information should be obtained only through court / tribunal and not under the provisions of the RTI Act."

14. Undisputedly, Right to Information Act, 2005 has influenced all government organs, the judiciary, the execution and the legislature, however, the independence of judicial authority flows

from the discretion given to that authority to take all decision in the matter. Judiciary had always been secluded on the ground of independence of judiciary which is enshrined in the constitution.

15. In the present case, the RTI application dated 09/08/2021 was replied by the PIO on 03/09/2021 i.e within stipulated time. It is not the case that the PIO was unwilling to provide the information, however, records shows that the PIO requested the Appellant to inspect the file, as the information sought was unspecific and vague. Nevertheless, it is open to the Appellant to submit fresh application before the public authority with specific requirement and obtain the information
16. However, parting with the matter, the Commission is of the opinion that, the approach of the then PIO, Mr. Joao Fernandes and incumbent PIO, Shri. Raju Desai, Administrator of Comunidade South Zone at Margao Goa appears to be very casual and trivial in dealing with RTI matters. Record reveals that the PIO did not appear before the FAA in first appeal. In spite of a valid service of notice, the PIO also failed and neglected to appear and file his say in the matter. Thus shown lack of concern to the process of the Commission and disregards to the RTI Act and hence failed to discharge his duties diligently. The Commission warns the PIO that henceforth he should discharge his duties with more diligent and cautious manner.
17. Considering the fact and circumstances, hereinabove, I am of the opinion that, there is no malafide intention or irregularity in non-furnishing the information. The appeal is therefore disposed off. However the rights of the Appellant to inspect and to seek the information are kept open. Proceeding closed.
 - Pronounced in open court.
 - Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner