

GOA STATE INFORMATION COMMISSION

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Appeal No. 55/2022/SCIC

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

-----Appellant

v/s

1. The Public Information Officer,
Dy. Superintendent of Police,
Headquarters (North),
Porvorim-Goa 403521 .

2. The First Appellate Authority,
Superintendent of Police (north),
Alto-Porvorim,Goa 403521.

-----Respondents

Shri Vishwas Satarkar - State Chief Information Commissioner

Filed on:- 21/02/2022

Decided on: 09/09/2022

FACTS IN BRIEF

1. The Appellant, Shri. Jawaharlal T. Shetye, r/o. H.No. 35/A, Ward No. 11, Khorlim, mapusa-Goa by his application dated 05/11/2021 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 Deputy Superintendent of Police, North Goa Porvorim, Bardez-Goa.
2. The said application was replied by the PIO on 01/12/2021 in the following manner:-

Sr.No.	Information Sought	Information Furnished
1.	As per Point No.1.	Copy of the enquiry report submitted by SDPO Mapusa enclosed.
2.	As per Point No.2.	Copy enclosed
3.	As per Point No.3.	As per Point No.1 above.
4.	As per Point No.4.	SDPO Mapusa.
5.	As per Point No.5.	Letter dated 23.07.2021 is not available, however copy of letter dated 23.06.2021 is enclosed.

3. Not satisfied with the reply of the PIO the Appellant preferred first appeal under section 19 (1) of the Act before the Superintendent of Police, North District Headquarters, Porvorim-Goa being the First Appellate Authority (FAA).
4. The FAA by its order upheld the reply of the PIO and dismissed the first appeal on 02/02/2022.
5. Being aggrieved and dissatisfied with the order of the FAA dated 02/02/2022, the Appellant landed before the Commission with this second appeal under section 19(3) of the Act, with the prayer to direct the PIO to provide the correct information and to impose penalty on the PIO for denying the information.
6. Notice was issued to the parties, pursuant to which the representative of the PIO, Shri. Mangesh Mahale, HC attached to SP North appeared and placed on record the reply of the PIO dated 05/04/2022. The FAA duly served opted not to appear in the matter.
7. Perused the pleadings, reply, scrutinised the documents on record and considered arguments of the Appellant.
8. It is the case of the Appellant that, on 23/06/2021 he filed complaint before the Hon'ble Chief Minister, Government of Goa, Secretariat, Porvorim Goa for change in name by Smt. Vilasini V. Mahale to Smt. Vilasini V. Shirodkar. Ms. Isha M. Sawant, Under Secretary attached to the office of Chief Minister forwarded the said complaint to the Superintendent of Police on 14/10/2021, requesting to examine the matter and take necessary action under intimation to the Office of CMO. Upset over no action has been initiated by the Police, he filed RTI application dated 05/11/2021 and sought information with regards to Action taken report, certified copies of notings, correspondence, status report and name of the official who entrusted the duties of investigation.

Further according to him, the PIO has provided incomplete information and the FAA also failed to hear the first appeal within stipulated time.

9. On the other hand, through his reply dated 05/04/2022, the PIO contended that, upon the receipt of the RTI application, same was forwarded to the APIO/PSI Reader Branch North, Porvorim and based on the reply furnished by APIO he replied to the RTI application on 01/12/2021 i.e within stipulated time.

Further according to the PIO, the Appellant preferred first appeal before the Superintendent of Police on 15/12/2021, however, he did not appear for hearing before the FAA, the said first appeal was dismissed by order dated 02/02/2022, whereby, the FAA held that the action taken report has been rightly provided by the PIO to the Appellant on 01/12/2021.

10. On perusal of appeal memo it appears that, the Appellant is not satisfied with the investigation of the Police. His main grievance that he sought the investigation with regards to change in name from Smt. Vilasini Vilas Mahale to Smt. Vilasini Vilas Shirodkar. However, his complaint has not been dealt with appropriately and replied him about the divergence certificate thus diverting the investigation.
11. Appellant also argued that, there is no evidence of whatsoever in the record that said Smt. Vilasini Vilas Mahale was called to the police station for interrogations. According to the Appellant both the issues i.e change in name and divergence certificate are two different issues and the issue regarding Divergence Certificate is pending before the office of Mamlatdar-V at Mapusa Goa for final decision/order.
12. On perusal of Enquiry Report bearing No. SDPO/MAP/2598/2021 dated 09/11/2021 submitted by SDPO, Mapusa to Superintendent of Police (North) it is categorically mentioned that:-

"It is submitted by PI Mapusa PS that the petitioner Shri. Jawaharlal T. Shetye had filed complaints earlier in this regards dated 11.06.2021, 22.05.2021, 25.05.2021 and 09.06.2021 and in the past too and during the course of enquiry into the same, said Mrs. Vilasini @ Rantnaprabha w/o late Vilas Mahale, age 62 yrs, r/o. H.No. 167/12, behind Primary School, Khorlim Mapusa Bardez Goa has stated that after following the due procedure of law, Mamlatdar Bardez taluka had issued her Divergence Certificate stating that the name Ratnaprabha Ramnatha Salgaonkar @ Vilasini Vilas Mahale Shirodkar @ Vilasini V. Shirodkar are one and the same person, vide Divergence Certificate No. 05062015446 dated 05.06.2015.

It is submitted that by PI Mapusa PS that during the course of enquiry, the enquiry officer LPSI Rupali Govekar of Mapusa PS submitted letter to Mamlatdar of Bardez, vide No. PI/Map/7114/2021 dated 30.06.2021 who had issued the Divergence Certificate to Mrs. Vilasini Mahale/Shirodkar requesting to verify the same and conduct enquiry and report of the same may please be intimated to the petitioner Mr. Jawaharlal Shetye under intimation to Mapusa Police Station, however till date no report has been received. "

13. In a nutshell, the Appellant is aggrieved by an action taken report (Enquiry Report) prepared by Sub-Divisional Police Officer, Mapusa dated 09/11/2021 as the said report did not answer his queries. On this background the Appellant requires this Commission to direct the PIO to reinvestigate the issue and furnish afresh information replying to his queries, more particularly with regards to change in

name from Smt. Vilasini Vilas Mahale to Smt. Vilasini Vilas Shirodkar.

14. The point is that, the Commission has to function within the provisions of the Right to Information Act, 2005. This Commission is constituted under the said Act with powers and functions more particularly described under section 18, 19 and 20 of the Act. Such powers consist of providing existing information held in any form and in case of non-compliance of the said mandate without any reasonable cause, then to penalise the PIO. No powers are granted to the Commission to deal with any grievance beyond the said Act. The PIO is not expected to respond to the queries made in different form, he can only facilitate in providing information which is available with his records in material form.

15. The High Court of Gujarat in the case of **State of Gujarat & Anrs. v/s Pandya Viplukumar Dineshchandra (AIR 2009 Guj 12)** has held that:-

"..It deserves to be recorded that the power of the Chief Information Commission is creation of the statute, and his power is restricted to the provisions of the Act. He has power to direct for supplying of the information, and he may in some cases, if the information is not correctly supplied, proceed to direct for correction of such information and to supply the same. However, his power would end there, and it would not further exceed for adjudication of the rights amongst the parties based on such information. Such powers for adjudication of the rights inter se amongst party on the basis of such information are not available to him."

16. In the instant case, the PIO has furnished all the available information to the Appellant on 01/12/2021 which is duly endorsed by the Appellant on 08/12/2021. The PIO can only facilitate in providing information to the Appellant in case the same is available with the public authority. He cannot be held responsible for the reasoning or merit of the decision taken by the competent authority. If the Appellant feels that any official is not performing his duty in proper manner or erred to make the right decision, he can approach the concerned competent authority on the basis of information furnished to him.

17. 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.”

18. In another judgement the High Court of Patna in case of **Shekhar Chandra Verma v/s State Information Commission (L.P.A. 1270/2009)** has held that:-

"10. In our view, the RTI Act contemplates furnishing of information which is available on records, but it does not go so far as to require an authority to first carry out an enquiry and thereby 'create' information, which appears to be what the information seeker had required of the Appellant".

19. Under section 7(1) of the Act, the PIO is required to dispose the request of the applicant within 30 days. In the instant case, the PIO has replied to the RTI application on 01/12/2021 i.e within stipulated time. The FAA has also upheld the stand taken by the PIO. I therefore find no ground to impose penalty on the PIO as prayed by the Appellant.

20. Considering the fact and circumstances as discussed hereinabove, I find no merit in the appeal and therefore 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