

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 99/2021/SCIC**

Public Information Officer,  
Village Panchayat of Taleigao,  
Tswadi Goa. 403206.

.....Appellant

V/S

1. Alex Francis Dias,  
R/o. H.No. 2/119/A,  
Goletim, Saligao,  
Bardez Goa. 403511.

2. The First Appellate Authority,  
Block Development Officer,  
6<sup>th</sup> Floor, 4<sup>th</sup> Lift, Junta House,  
Panaji-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 21/04/2021**

**Decided on: 16/03/2022**

**ORDER**

1. The Applicant (Respondent No. 1) hereinabove, Mr. Alex Francis Dias r/o. H.No. 2/119/A, Goletem, Saligao, Bardez Goa by his application dated 20/10/2020 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) of Block Development Officer, Tiswadi, Panaji Goa.
2. The said application was transferred to PIO, Secretary of Village Panchayat Taleigao, Tiswadi Goa on 28/10/2020 under section 6(3) of the Act by the office of BDO, Tiswadi Goa.
3. Since the said application was not responded by the PIO of V.P. Taleigao within stipulated time, deeming the same as refusal, the Respondent No. 1 filed first appeal before the Block Development Officer, Tiswadi, Goa being the First Appellate Authority (FAA).

4. The FAA by its order dated 12/04/2021 allowed the said appeal and directed the PIO to furnish the information to the Applicant within 15 days from the date of receipt of the order.
5. The PIO (Appellant) being aggrieved with the order of FAA dated 12/04/2021, landed before the Commission in this second appeal under section 19(3) of the Act with the prayer to set-aside the order of FAA.
6. Notice was issued to the parties, pursuant to which Adv. S. Taleigaonkar appeared on behalf of Respondent No. 1 and filed his reply on 07/09/2021, FAA duly served opted not to appear and file his reply in the matter.
7. Perused the pleadings, reply, scrutinised the documents on record and considered the arguments advanced by the rival parties.
8. Learned advocate Shri. P. A. Kamat appearing on behalf of Appellant (PIO) submitted that the order passed by FAA is illegal and bad in law as the findings of the impugned order are without an inquiry and verification of facts. He further contended that, RTI Act categorically provides that no information can be provided unless requisite fee is paid and providing bulky information free of cost would cause loss to the public authority and prayed to set-aside the order of FAA, and relied upon the judgement of Hon'ble Supreme Court in the case **Village Panchayat, Calangute v/s Additional Director of Panchayat-II, Ors ((2012) 7 SCC 550)**.
9. On the other hand, learned advocate Shr. S. Taleigaonkar emphasised that the present appeal is not maintainable and has challenged the locus satndi of the PIO to challenge the order of FAA and also argued that no prejudice of whatsoever will be caused to the Appellant if information is furnished as per the

direction of FAA and therefore the present appeal does not merit any interference by the Commission.

10. It is a matter of fact that, present proceeding is an appeal filed by PIO against the order of FAA.

11. I have perused the judgement referred by Adv. A.P. Kamat in the case of **Village Panchayat, Calangute v/s Additional Director of Panchayat-II (Supra)**. The Apex court in its findings has considered the scope, power and functions of Panchayat Raj Institution in the backdrop of conceptualisation of the Village Panchayat as a unit of self – government and observed that while exercising the powers under the Panchayat Act, the Panchayat was not acting as a subordinate to Directorate of Panchayats but a body representing the will of the people and responsible for its own affairs and therefore held that Panchayat has locus standi to challenge the order of Directorate of Panchayat. However the facts of the present case and of the judgement relied upon by the Appellant is distinguishable and not relevant. In the present matter the challenge is by the PIO, appointed under Right to Information Act, 2005. The challenge is not made by the Village Panchayat itself under the Goa Panchayat Raj Act, 1994 or some other Act. It may be that the PIO is Secretary of the V.P. but that does not ban him to act or behave in the manner and under the provisions of other statute not dependent on the Panchayat Raj Act.

12. The Division Bench of this Commission by order in the case of **Public Information Officer, Keerti Vidhyalaya v/s First Appellate Authority, Deputy Director, North Educational Zone, Mapusa Goa (Appeal No. 12/SCIC/2015)** dated 15/04/2016 has held that appeal filed by PIO is not maintainable and therefore dismissed. It will be relevant to reproduce the reasoning of the Commission. It reads as under:-

*"3. As the appeal is filed by the PIO, before we deal with the merits of the appeal, the maintainability thereof is required to be considered. For the purpose of second appeal it would be necessary to consider the role of the FAA under the Act and the order passed by such authority. Section 5 of the Act makes it mandatory for every public authority to designate any officer as the PIO. The Act under section (19) further, provides that any person who does not receive any decision or is aggrieved by the decision of such Public Information officer shall file an appeal to such officer who is senior in rank to the PIO. Thus the first appellate authority, in its designation is a senior officer to the PIO and is also an appellate authority.*

*Analogy of this hierarchy can be equated under the judicial set up. PIO is under the act acting as the trial court and the FAA as an appellate Court under the RTI Act. PIO who is thus an authority to furnish the information has no authority to challenge the order passed by his senior officer in an appeal. What is available to the PIO in the present circumstances is only to abide by the order of the appellate authority, as otherwise it would amount to the challenge of the appellate court by a trial court. PIO cannot have any personal interest in the issue and hence cannot be said to be an aggrieved party.*

*4. The appeal before this Commission is filed by PIO against the decision of FAA. PIO is the information provider, and not the seeker of the information. Section 19 (3) Act, deals with the appeals and the above provisions are made in the interest and for the benefit*

*of information seeker. There is also no provision in the Act to consider such Appeals filed by PIO's against the order of FAA as the very purpose of this Act is to provide the information. The Appellant could not point out any provisions under which they came in appeal against the Order of First Appellate Authority (FAA).*

*5. In the aforesaid circumstance we are of the opinion that the order passed by the FAA does not give any scope to the PIO to challenge the order passed by his senior to the second appellate authority. In the circumstances we hold that the second appeal is not maintainable as the PIO has no locus standie to challenge the said order of his senior officer i.e. the FAA."*

It is with the above findings that the Division Bench of this Commission has held that no second appeal can lie at the behest of the PIO.

13. I find no ground in the present appeal to differentiate the circumstances from the said appeal No. 12/SCIC/2015, and to the knowledge of this Commission said order dated 15/04/2016 of the Commission is not set-aside. I therefore find no grounds to differ in my findings.
14. In the circumstances, I hold that the present appeal filed by the PIO is not maintainable. The same is therefore dismissed.
  - Proceedings closed.
  - Pronounced in the open court.
  - Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner