

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Appeal No. 26/2022/SIC**

Prakash Pandurang Dhoke,  
Flat No. 13/336/8,  
Ground Floor, H. No. 13/366,  
Near to Karimabad Co.op Housing Society Gate,  
Campal, D.B. Marg, Panaji,  
North Goa 403001.

-----Appellant

**v/s**

1. Mr. Sagun R. Velip,  
First Appellate Authority,  
Director, Directorate of Art and Culture,  
Sanskriti Bhavan, Patto,  
Panaji-Goa 403001.  
2. Mr. Ashok V. Parab,  
Public Information Officer,  
Dy. Director, Directorate of Art and Culture,  
Sanskriti Bhavan, Patto,  
Panaji-Goa 403001.

-----Respondents

Filed on: 20/01/2022  
Decided on: 25/08/2022

**Relevant dates emerging from appeal:**

RTI application filed on	: 26/06/2021
RTI application transferred on	: 01/07/2021
PIO replied on	: 29/07/2021
First appeal filed on	: 27/08/2021
First Appellate authority order passed on	: 07/10/2021
Second appeal received on	: 20/01/2022

**ORDER**

1. The second appeal filed by the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') against Respondent No. 1, First Appellate Authority (FAA), and Respondent No. 2, Public Information Officer (PIO), came before the Commission on 20/01/2022.
2. The brief facts of this appeal as contended by the appellant are that, vide application dated 26/06/2021 he sought certain information from PIO of Kala Academy. The said application was transferred for furnishing part information, to respondent PIO, Directorate of Art and Culture. Aggrieved by the reply of the PIO, the appellant filed appeal dated 27/08/2021 before the FAA, which was disposed vide order dated 07/10/2021. Being aggrieved by the said order and denial of

the information, appellant preferred the second appeal before the Commission.

3. Pursuant to the notice, appellant appeared in person. PIO appeared and filed reply dated 24/02/2022, 13/04/2022 and 27/06/2022. FAA was represented by Shri. Devidas C. Kerkar under authority letter. Appellant filed submissions dated 28/03/2022, 04/05/2022 and 23/05/2022.
4. Appellant stated that, the PIO was non cooperative and unwilling to furnish the information and he also tried to evade the disclosure under Section 8 (1) (j) claiming the information as personal. However, the information sought is pertaining to the use of the vehicle owned by Kala Academy. The said vehicle is being used by the Director of Art and Culture, hence, the information pertaining to the use of the said vehicle has to be in public domain.

Appellant further stated that, the respondent PIO, Directorate of Art and Culture transferred the application on 29/07/2021 to the Under Secretary (GA-II), General Administration Department for information on sr. no. 3 (iii) (b) (viii). The PIO was required to transfer the said application within 05 days, however, he transferred the same after 28 days. Hence, the PIO must own the responsibility of furnishing the said information.

5. PIO stated that, initially he withheld the information under Section 8 (1) (j) presuming the same as personal information, however, later has furnished the available information to the appellant. Hence, question of vague and false information, as claimed by appellant does not arise. The information has been furnished within the time frame, hence the question of waiving of fee does not arise, also that the additional information has been furnished free of charge. Thus, the information sought by the appellant has been furnished as available in the records.
6. Upon perusal of the records of the present case it is seen that, the PIO vide reply dated 29/07/2021 had denied the information on sr. nos. 3 (iii) (b) (vi) and (vii) under Section 8 (1) (j) terming the same as personal information. Later, vide reply dated 24/08/2021, he stated that he has furnished additional information on sr. nos. 3 (i) and 3 (iii) (a) by asking appellant to pay charges of Rs. 48/-. The said reply was issued by the PIO after the expiry of stipulated period and hence, the PIO was required to furnish the said information free of cost. Appellant too, has objected to the charges, however, has not produced any evidence of the payment of Rs. 48/-. Therefore the Commission cannot direct the PIO to refund the amount of Rs. 48/-

to the appellant. Similarly, PIO has not produced on record the information furnished and the appellant still contends that he has not received full information.

7. As per the available records of the present matter the Commission notes that, the application dated 26/06/2021 was originally addressed to the PIO of Kala Academy and the said application was forwarded by the PIO of Kala Academy to the PIO of Directorate of Art and Culture for furnishing information on sr. nos. 3 (iii) (b) (vi), (vii) and (viii). PIO vide reply dated 29/07/2021 denied the information on sr. nos. 3 (iii) (b) (vi) and (vii) and on the same day transferred the application to the Under Secretary (GA-II), General Administration Department with respect to information on sr. no. 3 (iii) (b) (viii). Later, PIO of Directorate of Art and Culture, who is the respondent in the present appeal, stated before the Commission that he has furnished the information. However, the said PIO has not substantiated his contention with any documented evidence. In the absence of the evidence, the Commission observes that the PIO is required to furnish the information on sr. no. 3 (iii) (b) (vi) and (vii), which was denied under Section 8 (1) (j) of the Act. The said information pertains to the use of a Government vehicle by a Government officer. Hence, subscribing to the ratio laid down by the Hon'ble High Court of Bombay at Goa in writ Petition No.1 of 2009, Kashinath J. Shetye v/s. Public Information Officer and others, the Commission holds that the said information is in public domain and the same needs to be furnished to the appellant.
8. With respect to the information on sr. no. 3 (iii) (b) (viii), the PIO vide letter dated 29/07/2021 transferred the application to the Under Secretary (GA-II), General Administration Department. The information sought under the said serial number pertains to the admissibility of entitlement for taking the Government vehicle for travel to residence from office. The said information is required to be available in the records of the respondent PIO, his office being a Government Department, hence there was no need to transfer to said application to the Under Secretary of General Administration Department. With these findings, the Commission concludes that the respondent PIO has to furnish the information on sr. no. 3 (iii) (b) (viii) sought by the appellant vide application dated 26/06/2021.
9. Appellant has prayed for imposing penalty on the PIO for evading the disclosure of complete information. Penal action under Section 20 of the Act is considered if the PIO is found guilty of not furnishing the information with malafide intention. In the present matter the Commission observes that, though the PIO initially denied the

information, subsequently has furnished part information to the appellant. The denial was due to the wrong interpretation of Section 8 (1) (j) of the Act. Hence subscribing to the ratio laid down by the Hon'ble High Court of Bombay at Goa in Writ Petition. No. 205 of 2007, Shri. A. A. Parulekar v/s. Goa State Information Commission, the Commission finds that, there is no need of initiating penal action against the PIO. However, PIO is required to furnish the information sought by the appellant.

10. In the light of above discussion, the appeal is disposed with the following order:-

a) PIO is directed to furnish the information on sr. nos. 3 (iii) (b) (vi), (vii) and (viii) of application dated 26/06/2021, within 15 days from the receipt of this order, free of cost.

b) All other prayers are rejected.

Proceeding stands closed.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the order should be given to the parties free of cost.

Aggrieved party if any, may move against this order by way of a Writ Petition, as no further appeal is provided against this order under the Right to Information Act, 2005.

Sd/-

**Sanjay N. Dhavalikar**

State Information Commissioner  
Goa State Information Commission  
Panaji - Goa

