

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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Appeal 397/2023/SCIC

Shri Tejas Suhas Naik,
H. No. 388, Second Floor,
Royal Arcade Building,
Opp. Forest Rest House,
Quepem Goa 403705.

....Appellant

V/s.

1) The Public Information Officer,
District & Sessions Court, South,
Margao Goa 403601.

2) First Appellate Authority,
District & Sessions Court, South,
Margao Goa 403601.

.... Respondents

Shri Aravind Kumar H. Nair – State Chief Information Commissioner

Relevant Facts Emerging from the Appeal

RTI application filed on	- 29-05-2023
PIO replied on	- 27-07-2023
First Appeal filed on	- 27-07-2023
First Appellate order on	- Nil
Second appeal received on	- 29-09-2023
Decision of the Second Appeal on	- 30-12-2024

Information Sought and background of the Appeal

1. Shri. Tejas Suhas Naik filed an RTI application dated 29/05/2023 to the PIO, District & Sessions Court, South seeking following information :
 - i. *"Kindly provide copies of list of candidates who have secured more than 50% marks in the exam held for recruitment for the post of Baliff held on 20/01/2023"*
 - ii. *Copies of question paper, answer paper and answer keys of Tejas Suhas Naik, Roll No BLF/GEN/68*
 - iii. *Copy of list of candidates, who have secured more than 50% of marks in the exam held for recruitment for the post of MTS/Peon held on 29/1/2023*
 - iv. *Copies of question paper, answer paper and answer key of Tejas Suhas Naik, roll No. PN/OBC/71.*

2. However, the Appellant did not receive any response from the PIO to his RTI application, within the stipulated time of 30 days. Accordingly, Appellant preferred first appeal dated 27/07/2023 before the First Appellate Authority (Kshama Joshi), District & Sessions Court, South Goa in which he prayed for...
 - i. Respondent PIO be directed to furnish full and correct information within a stipulated time from the date of the first appeal, free of cost.*
 - ii. Respondent PIO should be asked to furnish reasons as to why he declined to provide information that was asked for.*
3. The First Appellate Authority after considering various facts and circumstances dismissed the first appeal by giving a detail judgment containing the background of the first appeal and the reasons which led to the dismissal of the appeal.
4. The Judgement states that the application filed by the applicant was not in proper format as per the Rules published in the Official Gazette dated 17/09/2009 and that the Appellant has not given self-addressed envelope with postal stamp, required for registered post under Rule 4 of Goa, Daman & Diu and Dadra Nagar Haveli RTI Rules, 2009 published in the Official Gazette, Series No. 1, No. 25 dated 17/09/2009. Moreover, the PIO was on commuted leave till 15/06/2023. As the matter of appointment of new PIO was referred to the Hon'ble High Court vide letter 20/05/2023 due to which RTI application of the Appellant kept in abeyance under intimation to the appellant signed by the Public Authority, Margao dated 24/07/2023.
5. The Judgement of the FAA further reveals that acting PIO who was appointed on 27/07/2023 on perusal of the RTI application found that it was not filed in prescribed format A, as required. Accordingly, letter to that effect was prepared and the applicant was contacted in his given number but he didn't respond.
6. Judgment reveals that the Appellant submitted before the FAA that any order be passed to which appellant was told to put down in writing but

the appellant left the court room without receiving the reply filed by the PIO or submitting his reply. The matter was adjourned to another day but the appellant failed to appear prompting the FAA to decide the first appeal on 11/09/2023 and dismissed the first appeal vide order dated 11/09/2023.

FACTS EMERGING IN COURSE OF HEARING

7. Acting on the second appeal dated 29/09/2023 filed by the appellant, parties were notified and the matter was called out for first hearing on 21/12/2023. Appellant present in person for initial three hearings and subsequently neither the appellant nor his representative turned up for hearing.
8. The Respondent PIO in written reply dated 14/02/2024 to the second appeal stated that the appellant's RTI application dated 29/05/2023 was inwards by the inward section of the District Court, South Goa on 30/05/2023 and 05/06/2023, a noting was put up by the concerned official stating that the application is not in a proper Format – A, as required under Rule 4 of the Goa, Daman, Diu and Dadra & Nagar Haveli RTI Rules, 2009.
9. Respondent PIO further submitted that there was no malafide intention on the part of her in rejecting the request, to furnish information as the same was not sought in prescribed application Form A. According to the PIO, she is bound to follow and adhere the Rules of Goa, Daman & Diu and Dadra & Nagar Haveli District Courts RTI Rules 2009, since the said Rules are still in force.
10. The written submission dated 30/12/2024 filed by the FAA stated that the RTI applicant's first appeal dated 27/07/2023 was disposed on 11/09/2023 within the time limit of 45 days. The said appeal had not affixed with the required court fee of Rs. 20/- and it was duly brought into the notice of the Appellant.

11. After having heard the Respondent 1 and perusal of records found that the application under RTI of the appellant was not in proper format 'A' as per rules published in the Official Gazette dated 17/09/2009 and the appellant had not given self addressed envelope having sufficient postal stamp. The appellant orally submitted before the FAA to pass any order in the first appeal but he declined to give the same, in writing. After perusal of records, submissions and hearings, the appeal dismissed vide order dated 11/09/2023.
12. The Respondent PIO in her written submission dated 30/12/2024 stated that there was no malafide intention on the part of her in rejecting the request of the appellant, on the ground of not sought in prescribed application Form 'A'. The PIO is bound to follow and adhere to the Rules of Goa, Daman & Diu and Dadra Nagar Haveli District Courts RTI Rules 2009 published in the Official Gazette of Government of Goa, Series I, No. 25 dated 17/09/2009. Since the said Rules are still in force.
13. PIO further submitted before the Commission that vide letter dated 20/07/2023, she had informed the appellant that his application dated 29/05/2023 is not as per format 'A' and conveyed that Hon'ble High Court has framed the Rules called the 'Goa, Daman & Diu and Dadra Nagar Haveli District Courts RTI Rules 2009' published in the Official Gazette at Series No. 25 dated 17-09-2009 by Law Department. Appellant was asked to submit the application, as per the format A for obtaining the information sought by him but he didn't submit the application as prescribed Form A.

OBSERVATION OF THE COMMISSION

14. Perusal of the records and the analysis of the circumstances reveal that there are some lapses on the part of the RTI applicant from the filing of RTI application to the filing of first appeal.

15. There was no envelope affixed with required postal stamp and address along with the RTI application to receive the reply/information from the PIO.
16. There was no response to the call made by the PIO to intimate about the need to submit the application in the prescribed format 'A', which is in practice under Goa, Daman and Diu and Dadra & Nagar Haveli District Courts under RTI Rules, 2009.
17. The Appellant orally submitted before the FAA to pass any order in his first appeal. Instead of allowing the FAA to pass any order, the Appellant should have placed his arguments before FAA and could have asked the ground for asking him to file application in Form A.
18. If the Appellant is very concerned about the information, there is nothing wrong in submitting his application in Form A, which, according to the Respondents, is the practice followed by the District Courts as per the Rules formulated by the Hon'ble High Court of Bombay.

DECISION

- i. **Since the PIO has no malafide intention in rejecting the information to the Appellant as his application was not as per Form A and requested the Appellant to submit the application as per the Form A under the Hon'ble High Court framed Rules called Goa, Daman & Diu and Dadra Nagar Haveli District Courts RTI Rules 2009, the Commission hereby directed the Appellant to obtain the required information by filing an application in the said Form 'A'.**

- ii. Commission further issued directions to the Respondent PIO to furnish the information as sought by the applicant once he files application as per Form –A.
- iii. Chapter –II of Notification by the High Court of Judicature at Bombay captioned ‘procedure tor application and its Disposal’ states that –

"A person who desires to obtain information under the Right to Information Act, 2005 shall make a requisition in a self-signed application in Form A – appended hereto to the Public Information Officer, accompanied by a fee of rupees ten by way of cash and a self addressed envelope bearing postal stamps equivalent to the rate prescribed for Registered Post with Acknowledgment Due (R.P.A.D) alongwith the application".

- Appeal stands disposed.
- Proceedings closed.
- Pronounced in open Court.
- Notify the parties.

Sd/-

(ARAVINDKUMAR H. NAIR)

State Chief Information Commissioner, GSIC

