

GOA STATE INFORMATION COMMISSION

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Appeal No. 99/2023/SCIC

Shri. Narayan Datta Naik,
H. No. 278/1(3),
Savorfond, Sancoale,
Goa 403710.
V/s

-----Appellant

1.The Public Information Officer,
(Section Officer Revenue-I),
Revenue Department,
Secretariat, Porvorim Goa.

2.The First Appellate Authority,
Joint Secretary Revenue,
Revenue Department,
Secretariat, Porvorim – Goa.

-----Respondents

Shri Aravind Kumar H. Nair – State Chief Information Commissioner

Relevant Facts

RTI application filed on	- 13-10-2022
PIO replied on	- 14-11-2022
First Appeal filed on	- 23-11-2022
First Appellate order on	- 03-02-2023
Second appeal received on	- 08-03-2023
Decision in the Second Appeal on	- 21-01-2025

Information sought and background of the Appeal

- Shri. Narayan DattaNaik filed an RTI application dated 13/10/2022 to the PIO (Section Officer), Department of Revenue seeking information at 12 points pertaining to all correspondence, letters, orders, files, noting, notes etc. exchanged between the Revenue Department, Government of Goa and M/s. Zuari Agro Chemicals Ltd., M/s. Pradeep Phosphates Ltd. and Zuari Global Ltd. During the last 3 years with regard to the Sale, Transfer, exchange, lease, mortgage of their Fertiliser project/land/properties from the Village Panchayat Sancoale area, Mormugao Taluka, South Goa.

2. The information sought by the Appellant includes legal advice/opinion from the private lawyer on sale of Fertiliser project by Zuari Agro Chemicals Ltd., instructions issued to the District Collector of South Goa, Government approval on appointment of a private lawyer for his legal opinion/advise on sale of Fertiliser project land, legal opinion sought from the Advocate General, Government of Goa on sale of fertiliser project etc.

3. On receipt of the RTI application dated 13/10/2023, PIO (Mrs. Celina Rodrigues, Section Officer Revenue-I) transferred the RTI application u/s 6(3) (ii) to the PIO, Civil Administration Branch, Collectorate of South Goa requesting to furnish information with reference to Point No. 1 and 11 directly to the Appellant on said 2 points in the RTI application as it pertains to the Collectorate, South Goa. APIO, Collectorate South vide letter dated 02/11/2023 transferred the same application for information with reference to Point No. 1 and 11 to the Administrator, Comunidade of South Zone, Margao to furnish information to the Appellant. Accordingly, PIO/Administrator Comunidade, South Zone, Margao vide letter dated 09/11/2022 replied to the Appellant that information sought at Point No. 1 and 11 is not available in his office.

4. Thereafter, PIO (Section Officer Revenue-I, Mrs. Celina Rodrigues) vide letter dated 14/11/2022 replied to the Appellant that the information with reference to point numbers 2 to 9 and 12 attracts Section 8 (h) of the RTI Act, 2005 and, as such, the desired information cannot be furnished at the moment. However, the same may be considered at a later date. With reference to Point No. 10, desired information has already been provided vide letter dated 07/11/2022.

5. Aggrieved by the reply of the PIO, RTI applicant filed first appeal dated 23/11/2022 to the First Appellate Authority (Joint Secretary, Revenue) stating that Respondent PIO denied information with reference to point No. 2 - 9 and 12 under Section 8 (h) of the RTI Act. As regards to Point

No. 1 and 11, Appellant submitted that his application was wrongly transferred resulting in denial of information.

6. During the course of hearing in first appeal, FAA observed that the Appellant has not sought any specific file details pertaining to Point No. 1 and with regard to Point No. 11, Appellant sought unspecified information for the last 20 years. Accordingly to the FAA, Section 8 of the RTI Act provides for exemption from disclosure of information to any citizen. Partly allowing the first appeal, the FAA directed the Respondent PIO to furnish a point-wise reply as claimed by the PIO in her defence to the Appellant within a period of 15 days from the date of order (03/02/2023).
7. Following the order dated 03/02/2023 passed by the FAA, Respondent PIO (Section Officer, Revenue-I) vide letter dated 21/02/2023 furnished revised reply to the Appellant covering all 12 points in the RTI application.
8. Aggrieved by the reply dated 21/02/2023 received from the Respondent PIO, Appellant preferred second appeal dated 08/03/2023 stating that the reply furnished by the Respondent PIO is totally unsatisfied and vague. Appellant stated that the conduct of the PIO and the FAA (Joint Secretary, Revenue) goes against the spirit and intention of the RTI Act. Appellant prayed for issuing order directing the Respondent PIO to furnish information available to the Appellant as per points, to compensate the Appellant for the loss suffered and impose penalty as well as disciplinary action against the PIO Celina Rodrigues for causing delay and tactfully denying the information to the Appellant.
9. Pursuant to the Second appeal, parties were notified fixing the matter for hearing on 27/04/2023, wherein Appellant and Respondent PIO sought time to file reply on 13/06/2023. Respondent PIO filed reply enclosing reply dated 21/02/2023 covering all 12 points in the RTI application. The reply stated that as regards to point 4,5,6 and 7, the

opinion from the Advocate has been received and is under examination, therefore the opinion cannot be furnished at this stage.

10. In the reply filed dated 13/06/2023, Respondent PIO stated that "with reference to the contents of paragraph 4 to 6 of the Appeal memo, the undersigned has duly complied with the order/judgement passed by the Respondent No. 2 (FAA) and furnished a point-wise reply to the RTI application within 15 days of the FAA's order.
11. In the subsequent two hearings, Appellant appeared in person and the Respondent PIO appeared along with Advocate Harsha Naik. Thereafter, Appellant did not turn up for six consecutive hearings held from September 2023 to February 2024. The matter was not taken up for hearing from March 2024 to September 17, 2024 as the post of SCIC and SIC remained vacant.
12. Incumbent SCIC took up the matter for hearing on September 19, 2024 but both Appellant and Respondent were absent prompting the Commission to serve notice to the parties for their presence in the next date of hearing, 12/11/2024.
13. Adv. Harsha Naik appeared on behalf of the Respondent PIO on 12/11/2024 and submitted a written argument to the Appeal, which stated that all information as desired by the Appellant except information pertaining to the legal opinion has been duly furnished to him. The written argument further stated that in Writ Petition No. 583/2016, the order dated 29/04/2016 of Goa State Information Commission for directing the PIO to furnish a copy of legal opinion was challenged before the Hon'ble High Court of Bombay at Goa and the Court vide oral judgement dated 09/03/2023 has set aside the said order dated 29/04/2016 of GSIC. Advocate for Respondent PIO further submitted that the above said Judgement of the Hon'ble High Court of Bombay at Goa is applicable to the present appeal filed by the Appellant and hence the present appeal be dismissed.

14. Appellant after collecting the written argument filed by the Respondent PIO requested for a longer date as he is going abroad. Accepting the request placed by the Appellant, matter was fixed for 21/01/2025 but he did not turn up on that day and the Advocate for the Respondent PIO pointed out the Appellant's lack of interest in the present appeal filed by him.

OBSERVATION

- 1) Commission observed that the Appellant has not shown any interest in his appeal after couple of hearings at the initial stage.
- 2) There were six hearings in the present appeal from 25/09/2023 to 14/02/2024 but the Appellant remained absent from hearing on all six occasions.
- 3) On 12/11/2024, Appellant himself requested for a longer date but despite fixing the matter on 21/01/2025 as per the convenience of the Appellant, he remained absent for this hearing also.
- 4) Advocate for Respondent PIO placed on record the ***Hon'ble Bombay High Court at Goa's oral judgement Writ Petition No. 583 of 2016 set asiding the order dated 29/04/2016 of Goa State Information Commission directing the PIO to furnish a copy of legal opinion and the applicability of the said order on the present appeal.***

DECISION

Based on the Respondent PIO's submission that all information as desired by the Appellant except information pertaining to the legal opinion has been duly furnished to the Appellant, oral judgement dated 9th March 2023 of Bombay High Court at Goa in Writ Petition No. 583 of 2016 in the matter of furnishing copy of the legal opinion as well as its applicability in the present appeal and Appellant's least interest in the

proceedings in the present appeal filed by him, the Commission is of the opinion that the present appeal does not warrant further proceedings and disposed off today i.e. 21/01/2025 without any specific direction to the Respondent PIO, who submitted that 'all information as desired by the Appellant except information pertaining to the legal opinion has been duly furnished to the Appellant'.

As the Appellant failed to establish larger public interest warranted disclosure of legal opinion/advise (as sought in the RTI application dated 13/10/2022) the oral judgement dated 09/03/2023 of the Hon'ble High Court of Bombay at Goa can be considered applicable in the present appeal also.

- Proceedings stand closed.
- Pronounced in open Court.
- Notify the parties.

Sd/-

(ARAVIND KUMAR H. NAIR)
State Chief Information Commissioner, GSIC