

GOA STATE INFORMATION COMMISSION
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Appeal No. 239/2022/SCIC

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

.....Appellant

V/S

Shri. Raghuvir D. Bagkar,
The Public Information Officer,
Village Panchayat of Sancoale,
P.O. Cortalim,
Mormugoa-Goa 403710.

.....Respondent

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 15/09/2022

Decided on: 10/04/2023

FACTS IN BRIEF

1. The Appellant, Shri. Narayan Datta Naik, r/o. H.No. 278/1(3), Savorfond, Sancoale, Mormugao-Goa vide his application dated 09/05/2022 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), Office of the Village Panchayat Sancoale, Sancoale-Goa.
2. The said application was responded by the PIO on 23/06/2022, thereby furnishing the information at point No. 1 and 7 and rest of the information has been denied being not specific and requested the Appellant to visit the office of public authority on any working day for inspection of records.
3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Block Development Officer at Mormugao-Goa being the First Appellate Authority (FAA).
4. The FAA vide its order dated 15/07/2022 allowed the first appeal and directed the PIO to provide the information to the Appellant free of cost, within the period of 10 days.

5. Since the PIO has failed and neglected to comply the order of the FAA dated 15/07/2022, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act.
6. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 17/10/2022, the then PIO Shri. Raghuvir Bagkar appeared on 17/10/2022 and submitted that available information has been furnished to the Appellant by letter dated 23/06/2022 and sought time to file his formal reply in the matter.
7. On 23/11/2022, the PIO, Raghuvir Bagkar appeared and submitted that he is transferred from the Village Panchayat Sancoale and he did not participate in further hearings.
8. On 27/01/2023, the Appellant moved application and urged that fresh summons be issued to the incumbent PIO, Smt. Asha Mesta. In the interest of justice and fairness, the Commission issued notice to the incumbent PIO to appear in the matter. Though served the incumbent PIO, Smt. Asha Mesta failed and neglected to appear in the matter for the reason best known to her.
9. I have perused the pleadings and scrutinised the documents on record.
10. It is admitted position that, the Appellant has received the information at point No. 1 and 7, therefore the dispute remains with regards to information at point No. 2,3,4,5 and 6 which reads as under:-

"(2) Kindly inform me numbers of applications contradict to Section 113-A were placed before each V.P. body fortnightly (Ordinary) Meetings & executed by V.P. Secretary during tenure of present V.P. body in Any Other Subject matter with the Permission of the

Chairperson by Violating & over ruling Section 113-A of Goa Panchayat Raj (Meeting) Rules 1997.

(3) Kindly inform me that Chairperson / Sarpanch is allowed in Goa Panchayat Raj (meeting) Rules 1997 to adopt such Resolution No. 12(2) of the meeting held on 16/07/2021. If so then kindly furnish me copy of the provision available in Goa Panchayat Raj Act 1994.

(4) Kindly inform me that V.P. Secretary is empower to execute Resolution No. 12(2) of the V.P. body meeting held on 16/07/2021. If so then kindly furnish me copy of the provision available in Goa Panchayat Raj Act 1994 & also names of V.P. Secretary who had executed on said Resolution as on date.

(5) Kindly inform me that the Govt. of Goa Circular No. 19/ 113/ DP / PAN / MEET- AGENDA /03 /3140, dt. 10/10/ 2003 is still in force & binding on V.P. Secretary. If so then kindly furnish me names of V.P. Secretary who had violated the Section 113-A during their posting in Sancoale Panchayat office & executed the Resolutions that were adopted in any other subject matter of the V.P. body meeting Agenda (i.e. During tenure of present V.P. body).

(6) Kindly furnish me copies of all such applications/ correspondence that were placed in any other subject matter & also copies of such NOC's / Construction Licences / trade Licences/ Permission/ Occupancy Certificate/ payment on bills/ Expenditure Tenders/ Quotations etc that were issued by your office by floating all the norms & overruling Section 113-A of Goa Panchayat Raj Act 1994 (i.e. During tenure of present V.P. body)."

11. On going through the above request of the Appellant, it appears that the Appellant is seeking the clarification of Goa Panchayat Raj (Meeting) Rules 1997, and Provision available in Panchayat Raj Act, 1994 and is also seeking information with regards to Government of Goa Circular No. 19/113/DP/PAN/MEET-AGENDA/03/3140 dated 10/10/2003. Instead of seeking information, the Appellant is seeking interpretation of the Act/ Law from the PIO. The Appellant is not entitled to receive the advice, view, reasons, explanation from the public authority to his queries, especially when such advice or views do not find mention in the records. It is open to the Appellant to refer to those Acts, Circular etc and draw his own conclusion or consult the lawyer if necessary. The PIO under the Act is bound to furnish the information which is covered under Section 2(f) of the Act. The PIO can only facilitate in providing the information to the information seeker, which is available in material form.
12. At this stage it would be appropriate to cite the judgement of Hon'ble Supreme Court in the case **Central Board of Secondary Education & Anr. v/s Aditya Bandopadhyaya & Ors. ((2011) 8 SCC 497)** has held that:-

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the

information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and /or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' of the section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.

13. Considering the fact and circumstances, the Commission is of the view that there is no malafide intention for denying the information by the PIO. Since the information sought by the Appellant is not in existence, the question of giving any direction to furnish the same does not arise and accordingly the appeal is dismissed.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner