

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No. 103/2022/SCIC

Adv. Mr. Joshua Gracias,
G5, R.A. Apartment, Madel,
Margao-Goa 403601.

.....Appellant

V/S

1. The Public Information Officer,
The Executive Engineer,
Works Div-IV (Roads),
P.W.D., Fatorda,
Salcete-Goa 403601.

2. The First Appellate Authority,
The Superintending Surveyor of Works,
Public Works Department,
Altinho, Panaji-Goa 403001.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 04/04/2022

Decided on: 07/08/2023

ORDER

1. The Appellant, Adv. Joshua Gracias r/o. G5, R.A. Apartment, Madel, Margao-Goa vide his application filed through registered post dated 28/09/2021 under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), Office of the Executive Engineer, W.D-IV, PWD, (Road Division), Fatorda, Salcete-Goa:-

"With reference to the above, request the following information in the form of certified copies from your good office.

- 1) *Copies of all final plans of road constructed in Calata, Salcete-Goa pursuant to public notification No. 22/198/85-RD dated 28/01/1985 (said road).*

2) Information as to the approved width of the road constructed in Calata, Salcete-Goa pursuant to public notification no. 22/198/85-RD or copies of any document showing the width of the said road finally constructed.

3) Information as to any road widening approved and carried out on the said road (any orders/ notifications) upto 31/08/2021."

2. Since the application was not responded by the PIO within stipulated time, the Appellant filed first appeal before the Superintendent Surveyor of Works, Public Works Department, Altinho, Panaji-Goa being the First Appellate Authority (FAA).
3. The FAA vide its order dated 07/01/2022 disposed off the first appeal without granting any relief to the Appellant.
4. Being aggrieved and dissatisfied with the order of the FAA, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayer to direct the PIO to provide the information and to impose penalty on the PIO for denying the information.
5. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 11/05/2022. Shri. Dilip Khaunte representative of the FAA appeared and placed on record the reply of the FAA dated 11/05/2022. Adv. K.L Bhagat appeared on behalf of the PIO and placed on record the reply of the PIO dated 12/09/2022.
6. I have perused the pleadings, replies, rejoinder, written submissions as well as oral submissions and considered the material on record.

7. It is the case of the Appellant that, by his application dated 28/09/2021 he sought the copies of all final plans of road constructed in Calata, Salcete-Goa, pursuant to public Notification No. 22/198/85-RD dated 28/01/1985. It is the contention of the Appellant that said road was constructed by the office of the Respondents and they are bound to maintain the said records until legally weeded out, however, the PIO and the FAA denied to furnish the information with the reason that information is not traceable.

Further, according to the Appellant, the reasoning of the FAA is overtly absurd and illogical and prayed that maximum penalty be imposed on the PIO for denying the information.

8. As against this, the PIO through his reply dated 12/09/2022 contended that, upon the receipt of the RTI application dated 28/09/2021, he started search of the said information and considerable time was spent on the search, as the information sought was not specific to any particular road or roads and it was pertaining to the year 1985, which is around 36 years old.

He further contended that, office of the PIO made all possible efforts to search in to the old records but could not locate the relevant documents. Being the information was 36 years old the search process was going on and therefore, in such a process the PIO could not inform the Appellant about the non-availability of the information within the stipulated period of 30 days.

The PIO further contended that, there are various roads in village Calata of Salcete taluka, therefore in an effort to provide the information, the Appellant was requested to specify the road or specify the name of the project or atleast show the physical location of the said road, however, according to the PIO, the Appellant did not co-operate with him.

9. The FAA contended through his reply that he is adopting the stand taken by his predecessor while deciding the first appeal and reiterate that road is not properly identified by the Appellant and the information sought for by the Appellant is not specific to identify the information.
10. During the course of arguments on 07/11/2022, the Appellant produced on record the copy of Notification bearing No. 22/198/85-RD published on 19/03/1987, with regards to the Project viz Land acquisition for extension of Carbot - Calata Road excluding plot No. 23/09 up to Betalbatim in V.P. Majorda.
11. In the course of arguments on 13/01/2023, the APIO, Shri. Meghashyam Naik appeared and produced on record location plan of Village Calata and Majorda and requested the Appellant to identify the road which he has mentioned in the RTI application. However, the Appellant could not point out the exact location of the road. For the sake of justice, the Commission directed the APIO to trace the copy of the award by referring the notification dated 19/03/1987, which is produced on record by the Appellant on 07/11/2022 in this second appeal proceedings.
12. On the next date of hearing on 13/03/2023, APIO, Shri. Meghashyam Naik appeared and produced on record the copy of Award in the case 16/64/85-86/DYC/NOR, passed by Deputy Collector and Sub-Divisional Officer, Mormugao, Vasco-da-Gama, Goa in the project "Land Acquisition for extension of Carbot Calata road excluding plot No. 23/9 upto Betalbatim in V.P. Majorda."

Adv. K.L. Bhagat pointed out that, the above award proceeding was commenced with the publication of Notification No. 22/198/85-RD dated 19/03/1987 and contended that the Appellant might have quoted wrong date in the RTI application as 28/01/1985. He further submitted that, except this award no plan

of the road or road widening approval is available in the records of the public authority. However, the Appellant is not satisfied with the said information.

13. The position that emerges from the above is that, the information sought for by the Appellant is vague and ambiguous. It is matter of fact that even from the location plan of Village Calata and Majorda, the Appellant could not identify the exact location of the road. In order to get the information from the public authority, the Appellant has to specify the correct date and name of the project, etc. When the request of the information seeker is clear, specific and unambiguous it would be possible for the PIO to identify the material on record. If the Appellant wishes to receive the correct information, it is in his own interest that he shows diligence to identify the information. The PIO is not expected to do research to decipher all material record and then furnish the outcome to the Appellant.

14. The High Court of Patna in the case **Shekhar Chandra Verma v/s State Information Commissioner (LPA 1270/2009)** has held that:-

"10. In our view, RTI Act contemplates furnishing of information which is available on records, but it does not go so far as to require an authority to first carry out an inquiry and thereby 'create' information, which appears to be what the information seeker had required of the Appellant."

15. The High Court of Delhi in the case **The Registrar, Supreme Court of India v/s Commodore Lokesh K. Batra & Ors. (W.P. No. 6634/2011)** has held that:-

"Insofar as the question of disclosing information that is not available with the public authority is concerned, the

law is now well settled that the Act does not enjoin a public authority to create, collect or collate information that is not available with it. There is no obligation on a public authority to process any information in order to create further information as is sought by an applicant.”

16. It is a consistent stand of the PIO that, the information sought by the Appellant is not traceable in the office records. It is also pertinent to mention that, information sought for pertains to the year 1986-87 which is sought after the span of about 37 years. It is quite probable that the records may not be available. Since the said information is not available in the records of the public authority, the Commission under Rule 5(1) of the Goa State Information Commission (Appeal Procedure) Rules 2006, directed the PIO to file an Affidavit to that effect.
17. Accordingly in the course of hearing on 20/04/2023, Adv. K. L. Bhagat appeared and placed on record the Affidavit in reply of the PIO dated 18/04/2023. I have perused the content of the Affidavit, in which it is categorically submitted on oath that he has made thorough search in to old records, however, could not locate the relevant information.
18. Since the information is not available in the records, the Commission cannot issue any direction to the PIO to furnish non-existing information. Since all the attempts to locate the information in this matter have failed no purpose would be served by prolonging the matter. In any case at any time the content of the said Affidavit are found false, the person swearing it would be liable for action for perjury.
19. In the given case it is revealed that, RTI application of the Appellant was not responded by the PIO within 30 days, therefore the PIO has committed irregularity. I find it appropriate to warn the

PIO, Shri. Prasad Panandikar that he should be diligent henceforth and deal with the applications under the Act with priority and caution, with the above observation, appeal is dismissed.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner