

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

Tel No. 0832-2437908/2437208 email: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) website: [www.gsic.goa.gov.in](http://www.gsic.goa.gov.in)

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**Appeal No. 127/2022/SCIC**

Shri. Praxy Fernandes Bhobe,  
H.No. 258, Vithalapur,  
Karapur-Tisk, Sankhali-Goa 403505.

.....Appellant

V/S

1. Nayan Morascar,  
Dy. Director of Administration & Public Information Officer,  
Water Resources Department,  
Sinchai Bhavan, Near Police Station,  
Porvorim, Bardez-Goa 403521.

2. Mr. Pramod Badami,  
The Chief Engineer & Superintending Engineer CPO,  
Water Resources Department,  
Sinchai Bhavan, Near Police Station,  
Porvorim, Bardez-Goa 403521.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 11/05/2022**

**Decided on: 27/03/2023**

**FACTS IN BRIEF**

1. The Appellant, Shri. Praxy Fernandes Bhobe r/o. H.No. 258, Vithalapur, Karapur-Tisk, Sankhali-Goa vide his application filed through Registered post dated 10/02/2022 under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information at point No. 1 to 10 from the Public Information Officer (PIO), Chief Engineer, Department of Water Resources, Government of Goa, Sinchai Bhavan, Porvorim-Goa.
2. The PIO of the Office of the Chief Engineer, Water Resources Department transferred the said application to the PIO, Executive Engineer, Works Division VI, Water Resources Department, Bicholim-Goa under Section 6(3) of the Act on 25/02/2022.
3. The PIO of the Executive Engineer, Works Division VI, Water Resources Department, Sarvan Bicholim Goa responded the said

application on 07/03/2022 informing the Appellant that "No such documents are available in the office".

4. Being aggrieved and not satisfied with the reply of the PIO, the Appellant preferred first appeal through Registered post before the Superintending Engineer, Central Planning Organisation, Water Resources Department, Sinchai Bahavn, Alto Provorim Goa being the First Appellate Authority (FAA).
5. During the pendency of the first appeal, the PIO of the office of Chief Engineer, Porvorim Goa by its communication dated 22/03/2022 informed the Appellant that purported information is ready and the same be collected on payment of fess of Rs. 38/-. The PIO further responded the RTI application on 25/03/2022 in the following manner:-

<b>R.T.I. Point No.</b>	<b>Information</b>	<b>Reply</b>
1.	Appointment letter / order of Praxy Fernandes Bhobe	Copy enclosed
2.	Joining report of Praxy Fernandes Bhobe	Not available
3.	Recruitment & Termination rules governing service at the time of appointment and at the time of services of Praxy Fernandes Bhobe	Copy enclosed
4.	Details of Suspension and Revocation Rules / Procedure applied/ followed for suspension and revocation of services of Praxy Fernandes Bhobe including charge sheet, departmental enquiry, and other information etc.	Copy enclosed
5.	Records/ Details of termination of Praxy Fernandes Bhobe containing charge sheet, departmental enquiry records any other information etc.	Copy enclosed
6.	Pay Scale at the time of appointment	Copy enclosed
7.	Pay Scale at the time of termination	Not available
8.	Copy of application submitted and re-submitted through proper	Not available

	channel to the Chief Engineer by Praxy Fernandes Bhohe in October 1995 and December respectively to avail 5 years special leave to avail private employment.	
9.	Record/ details of Privilege leave availed by Praxy Fernandes Bhohe	Not available
10.	Any other records / information contained in service record of Praxy Fernandes Bhohe including.	Not available

6. Upon receiving the above intimation, the representative of the Appellant collected the information from the PIO on 25/03/2022 by paying requisite fee,
7. Considering the above, the FAA vide its order dismissed the first appeal on 09/05/2022.
8. Being aggrieved and not satisfied with the information provided by the PIO, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act, with the prayer to direct the PIO to furnish complete information, to impose penalty on the PIO and to award the compensation to the Appellant.
9. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 23/06/2022, the PIO Smt. Nayan Morascar appeared and filed her reply on 24/08/2022, representative of the FAA, Abdul Wahab appeared, however opted not to file any reply in the matter.
10. It is the case of the Appellant that, he has sought information regarding his service records right from the date of recruitment as Junior Engineer in the Water Resources Department till the date of his termination from the service.

According to the Appellant, the act of the PIO in transferring the RTI application to the Executive Engineer VI at Bicholim was not at all necessary and it was done deliberately to harass the Appellant.

Further, according to the Appellant, information provided by the PIO is incomplete which amounts to denying the information.

11. On the other hand, the PIO through her reply contended that, as the information sought pertaining to service records which in normal course should be with place of posting and hence the PIO transferred said RTI application to the Executive Engineer, Works Division VI, Bicholim Goa on 25/02/2022.

Further according to him, the PIO of Executive Engineer, W.D. VI, Bicholim has communicated to the Appellant vide letter dated 07/03/2022 that they do not possess the information with the intimation to the office of the PIO. Immediately thereafter, the PIO carried out further investigation of the information sought for and eventually the PIO found the purported information in the proceeding file and accordingly informed the Appellant on 22/03/2022 to collect the information.

Further according to the PIO, Shri. Sanjay Bhobe, the brother of the Appellant, by producing the letter of authority of the Appellant collected the information from the PIO on 25/03/2022.

Further according to the PIO, all the available information with the public authority has been provided to the Appellant and same is duly acknowledged by his brother Shri. Sanjay Bhobe.

12. The FAA through his written submissions submitted that, during the first appeal proceedings, fair opportunities were granted to the Appellant to appear and argue the matter, however he miserably failed, therefore considering the time bound limit specified under the Act he decided the first appeal on 09/05/2022.

13. Perused the pleadings, reply, written arguments and scrutinised the documents on records.

14. On meticulous reading of the reply dated 25/03/2022 filed by the PIO to the RTI application, it indicates that most of the information has been provided to the Appellant. It is also

admitted fact that, the Appellant received the following information:-

- 1) Copy of appointment letter
- 2) Copy of guidelines of suspension
- 3) Copy of schedule for appointments
- 4) Copy of Departmental Enquiry Report

Therefore now the controversy remains with the information at point No. 2, 8 and 9 i.e. Joining Report of the Appellant, copy of leave application submitted by the Appellant to avail special leave and copy of record of Privilege Leave availed by the Appellant.

The PIO categorically submitted that said information is not available in the public records.

15. If the Appellant really wishes to receive the correct and complete information, it is in his own interest that he shows diligent to identify the information. Clearly the above information sought pertains to his own joining report and his own leave applications. While seeking the information, the applicant has to specify the information at least he should have provided the date and year of the leave applications or produce at least the copy of the entry receipt of said leave application to support his case. The Appellant did not produce any cogent evidence to establish that the said information was actually generated and available with the public authority and that the PIO has withheld said information. Therefore I do not find anything on record to show that the PIO has acted contrary. The Act contemplates furnishing of information which is available on record. The PIO is not obliged to collect or collate such non-available information and then furnish it to the Appellant.

16. It is also matter of facts that, at the relevant time the Appellant was working in the office of Assistant Engineer,

Sub-Division-II, Works Division XV, Quality Control, Irrigation Department, Bicholim, Goa. The said Works Division XV is thereafter abolished and the staffs are re-posted in other Divisions of Irrigation Department. It is also to be noted that the information sought pertains to the year 1987 to 1998, which was sought after the span of about three decades. It is quite probable that the records may not be available with the Water Resources Department.

17. 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's 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."*

18. A lack of Bonafide or Uncertainty on the part of the Appellant is evident from the fact that, he did not remain present before the FAA for first appeal. He also choose not to appear before the Commission for hearings viz. 10/11/2022, 15/12/2022, 30/01/2023, 02/03/2023 and 27/03/2023, having put the machinery in to motion.
19. The Appellant prayed that the PIO be directed to pay compensation however such a relief cannot be granted as the Appellant failed to make out any specific plea for amount of loss or shown actual quantum of damage caused to him.
20. As far as RTI Act is concerned, the PIO can only facilitate in providing the information which is available with the public authority. In the present case, available information has been

provided by the PIO. Therefore, I am not inclined to impose any penalty on the PIO as prayed by the Appellant.

21. Considering the fact and circumstances hereinabove, I find no merit in the appeal and therefore same is disposed off with the following:-

**ORDER**

- The appeal stands dismissed.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**  
State Chief Information Commissioner