

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

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website: www.gsic.goa.gov.in

Appeal No. 145/2022/SCIC

Mrs. Zelia D'Souza,
R/o. Flat No.07, Block B,
Ground Floor, Susheela Sankul,
Orulem, Vasco-da-Gama, Goa 403802.

.....Appellant

V/S

1. The State Registrar cum Head of Notary Services,
First Appellate Authority,
7th Floor, Shramshakti Bhawan,
Panaji-Goa.

2. The Public Information Officer,
Office of the Civil Registrar-cum-Sub Registrar,
Tiswadi, Spaces Building, 2nd Floor,
Patto, Plaza, Panaji-Goa 403001.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 01/06/2022

Decided on: 16/03/2023

FACTS IN BRIEF

1. The Appellant, Mrs. Zelia D'Souza, r/o. Flat No. B-07, Block B, Ground Floor, Susheela Sankul, Orulem, Vasco-da-Gama, Goa vide her application dated 01/10/2021 filed under the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), Office of Sub-Registrar, Junta House, Ground Floor, Panaji-Goa:-

"I request you to kindly issue me certified copy of Power of Attorney delegated to Shri. Franscisco De Souza, resident of Saudewddo, Chorao, Ilhas, Goa by Mrs. Paciencia Paixao Braganca e Souza to execute the Deed of Sale dated 7th April, 1986 in favour of Smt. Somoti Ramnath Parxenkar bearing survey No. 53, Sub-Division 1 of village Chorao, Ilhas, Goa.

The said Power of Attorney has been executed on 1st April, 1986 before the Notary of Panaji- Advocate Mr. Vasco da Silva Pereira and registered under No. 2967/C and it had annexed to execute the above said Deed of Sale.

The said Deed of Sale bears the serial No. 382/86 dated 7/4/1986 and registered in the office under Reg. No. 225 of Volume No. /CD 234 of Book No. 1 at pages 250 to 255 dated 16-11-1987."

2. The said application was responded by the PIO on 18/10/2021 in the following manner:-

"With reference to your R.T.I application dated 01/10/2021, this is to inform you that the details of the Power of Attorney registered under No. 2967/C dated 1/04/1986 registered before the Notary Adv. Mr. Vasco da Silva Pereira of Panaji, Goa is not traced in this office.

Further, the sale deed bearing Serial No. 382/86 dated 7/4/1986, registered under No. 255, you may visit the office of the undersigned during working days from Monday to Friday between 9.30 A.M. to 12.30 P.M. to make necessary payment of Rs. 110/- (Rupees One Hundred and Ten only) and submit 1 (One) Non judicial Stamp Paper of Rs. 100/- each, to enable us to issue certified copy."

3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant preferred first appeal before the State Registrar cum Head of Notary Services, at Panaji-Goa being the First Appellate Authority (FAA).

4. The FAA vide its order dated 16/03/2022 directed the PIO to take necessary action in the matter for loss of documents including searching the documents in the earlier office premises, in case of suspicion of any foul play file FIR and furnish the information to the Appellant if found, within 30 days.
5. Being aggrieved by not furnishing the information by the PIO till date, 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 the information and to impose cost for causing delay in furnishing the information.
6. Notices were issued to the parties, pursuant to which, Adv. A. Rodrigues appeared on behalf of the Appellant. The PIO, Maria Aquila F. Araujo appeared on 07/07/2022 and filed her reply, representative of the FAA Ms. Prachi Naik appeared and placed on record the reply of the FAA on 15/09/2022.
7. It is the case of the Appellant that, she has sought certified copy of Power of Attorney delegated to Shri. Francisco De Souza resident of Saudewado, Chorao Ilhas Goa by Mrs. Paciencia Paixao Braganca e Souza to execute the Deed of Sale dated 7th April, 1986 in favour of Smt. Somoti Ramnath Parxenkar bearing survey No. 53 Sub-Division 1 of village Chorao, Ilhas, Goa. Said Power of Attorney has been executed on 01/04/1986 before the Notary Public of Panaji, Adv. Vasco da Silva Pereira and registered under No. 2967/C and it was annexed to execute the above Deed of Sale. The said Deed of Sale dated 07/04/1986 bearing Serial No. 382/86 was registered in the office under Registration No. 225 of Volume No. /CD 234 of Book No. I at pages 250 to 255 dated 16/11/1987. However, the PIO vide letter No. CRSR/Tiswadi/RTI/55/2021-22 dated 18/10/2021 furnished her the copy of Deed of Sale dated 07/04/1986 instead of Power of Attorney which is not at all the subject matter of her RTI application.

Further according to her, the PIO has miserably failed to comply the order of the FAA dated 16/03/2022, thus disobeyed the order of the FAA.

Further she contended that only to cover up the lacuna from their end, the PIO lodged a FIR before the Panaji Police Station.

8. On the other hand the PIO through her reply dated 07/07/2022 contended that upon the receipt of the RTI application, the PIO carried out thorough search and vide letter dated 18/10/2021 informed the Appellant that, details of Power of Attorney registered under 2967/C dated 01/04/1986 is not traceable in the office records.

Further according to her, during the manual process of registration, the copies of additional documents submitted at the time of execution of Original documents was never made part of the said document and therefore same were not annexed alongwith bounded volumes as maintained in office records as office copies.

9. Perused the pleadings, replies, written arguments and scrutinised the documents on record.
10. Record reveals that, during the pendency of the first appeal, the FAA directed the PIO to carry out the search thoroughly. Considering the above, the PIO constituted committee on 24/02/2022 consisting of three members to conduct the search of the said Power of Attorney dated 01/04/1986 which was presented in the office of Sub-Registrar on 07/04/1986 at the time of execution of the Deed of Sale.

The said Committee conducted the search and submitted the report dated 09/03/2022 stating that, the search has been conducted thoroughly and said Power of Attorney could not be traced / found.

11. It is a consistent stand of the PIO that information sought for by the Appellant is not traceable. It is the stand of the PIO that earlier under manual registration of documents only office copy of Sale Deed was filed in volumes which was later on bounded. It is also contention of the PIO that even now the certified copy of the Deed of Sale, dated 07/04/1986 was issued to the Appellant was extracted from bounded volume only as per the records available in the office.
12. I have perused the order of the FAA dated 16/03/2022, particularly the operative part of the said order reads as under:-

ORDER

"Appeal filed by Mrs. Zelia D'Souza by application dated 03/11/2021 is hereby stands disposed with a directions to the Respondents PIO/ Jt. Civil Registrar-cum-Sub-Registrar, Tiswadi to take necessary action in the matter for loss of office documents, including searching the documents in earlier office premises, in case of suspicion of any foul play file FIR and to furnish the information to Appellant, if found within a period of 30 days from receipt of this order."

From the plain reading of the above, it indicates that the FAA was also not fully convinced about availability of information and therefore directed the PIO to search in the earlier office premises and furnish the information to the Appellant if found.

13. It is also to be noted that, the information pertains to the year 1986, which was sought after the span of about 37 years, that too such information which is an ancillary and supplementary in nature and the same was not generated in the office of the public authority but presented at the time of execution of the Deed of Sale. It is quite probable that the records may not be available.

14. Since the said information is not available in the records of public authority, Under Rule 5(1) of the Goa State Information Commission (Appeal procedure) Rules 2006, the Commission directed the PIO to file an Affidavit to that effect.
15. Accordingly in the course of hearing on 14/12/2022, the PIO Smt. Maria Aquila F. Araujo, Joint Civil Registrar cum Sub-Registrar, Tiswadi-Goa appeared and filed her Affidavit. I have perused the content of Affidavit in the said Affidavit, the PIO categorically submitted on oath that, she alongwith her supporting staff thoroughly searched the records however copy of the Power of Attorney for the year 1986 could not be found/ traceable.
16. Record also reveals that, while complying the order of the FAA, the PIO also lodged a complaint / FIR before the Panaji Police Station on 01/04/2022 for loss of office documents.
17. 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 attempts to locate the information in this matter have failed, no purpose would be served by prolonging the matter. In case at any time the content of the said Affidavit are found false, the person swearing it, would be liable for action for perjury.
18. In the present case, the RTI application dated 01/10/2021 was replied by the PIO on 18/10/2021 that is within stipulated time. Considering the facts and circumstances, I am of the opinion that there was no malafide intention in non-furnishing the information. I am therefore not inclined to impose the penalty as prayed by the Appellant. In view of the above, the appeal is disposed off. Proceeding closed. Pronounced in the open court. Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner