

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 167/2023/SCIC**

Mr. Joseph S. Carneiro,  
H.No. 1675, Journalist Colony,  
Alto Betim, Porvorim,  
Bardez-Goa 403521.

.....Appellant

V/S

1. Shri. V.T. Hadkonkar,  
The First Appellate Authority,  
District Registrar, North & Inspector General of Societies,  
4<sup>th</sup> Lift, 4<sup>th</sup> Floor, Junta House,  
Panaji-Goa.

2. Shri. Gouresh G. Bugde/ Public Information Officer,  
Joint Civil Registrar-Cum Sub Registrar Bardez-II,  
Essar Trade Centre, 2<sup>nd</sup> Floor,  
Morod, Mapusa-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 09/05/2023**

**Decided on: 26/09/2023**

**FACTS IN BRIEF**

1. The Appellant, Mr. Joseph S. Carneiro r/o. H.No. 1675, Journalist Colony, Alto Betim, Porvorim, Bardez-Goa by his application dated 03/01/2023 filed 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), Sub-Registrar of Bardez, Morod, Mapusa, Bardez-Goa:-

*1) Number of Applications for "**The Deed of Relinquishment**" with reference / date/ registration Nos. filed before your office and the dates of final execution carried out by your office, for the period from **01/09/2022** till the date of this Application.*

*2) Number of Applications for "**The Deed of Succession**" with reference / date/ registration Nos. filed before your*

*office and the dates of final execution carried out by your office, for the period from **01/09/2022** till the date of this Application.*

*3) Number of Applications for "**Public Will**" with reference / date/ registration Nos. filed before your office and the dates of final execution carried out by your office, for the period from **01/09/2022** till the date of this Application.*

*4) Number of Applications for "**Deed of Gifts**" with reference / date/ registration Nos. filed before your office and the dates of final execution carried out by your office, for the period from **01/09/2022** till the date of this Application.*

*5) List of number of Applications for "**Deed of Sale**" with reference / date/ registration Nos. mentioning the said properties/flats/villas, names of the Villages/Survey numbers situated in filed before your office and the dates of final execution Deeds of Sale carried out by your office, for the period from **01/09/2022** till the date of this Application.*

2. The said application was responded by the PIO on 27/01/2023 in the following manner:-

*"With reference to your application under Right to Information Act, 2005 dated 03/01/2023 it is to state as follows:-*

*As regards to point numbers 1 to 5, it is to inform you that the information sought by you is not available in the format as desired by you as the same needs to be created and collated as per Right to Information Act, 2005, the Public Information Officer can furnish the information that is available in the office records.*

*However, you may provide the Registration details of the document and apply for certified copy of the documents required by you.*

*In case you are not satisfied with the above reply, you may prefer an appeal before the First Appellate Authority / District Registrar North, having office at Junta House, 4<sup>th</sup> Lift, 4<sup>th</sup> Floor. Panaji-Tiswadi-Goa within 30 days from the date of receipt of this reply. "*

3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant filed first appeal before the Office of the District Registrar, North, Panaji-Goa, being the First Appellate Authority (FAA).
4. The FAA vide its order dated 29/03/2023 allowed the first appeal and directed the PIO to provide the information within 15 days.
5. Since the PIO failed and neglected to comply with the order of the FAA dated 29/03/2023, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information and to recommend disciplinary action against the PIO.
6. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 26/06/2023, the PIO Shri. Gouresh Bugde appeared on 26/06/2023 and filed his reply, the FAA Shri. V.T. Hadkonkar appeared, however chose not to file any reply in the matter.
7. Perused the pleadings, reply, rejoinder, sur-rejoinder, considered the submissions and judgement relied upon by the rival parties.
8. It is the case of the Appellant that, by his application dated 03/01/2023 he sought information regarding the number of applications received by the Sub-Registrar of Bardez with

regards to quantum of the Deeds of Relinquishment, the Deeds of Succession, Public wills, Deeds of Gifts and Deeds of Sale executed since 01/09/2022 till the date of application i.e. 03/01/2023. However, the said information has been denied to him on the ground that said information is not available in the format as desired by the Appellant.

Further, according to the Appellant the information can be denied to the applicant only when said information has been exempted under Section 8 and/or 9 of the Act, therefore the reply of the PIO is devoid of any judicious reasoning. The Appellant also submitted that the PIO has failed and neglected to comply with the order of the FAA dated 29/03/2023.

9. On the other hand, the PIO through his reply dated 31/08/2023 contended that, the information sought by the Appellant is not available in the format as desired by the Appellant. Further, according to the PIO, the information requested by the Appellant has to be gathered by inspection and identification of information and the information requested by the Appellant is not readily available in the manner requested by the Appellant. Further, according to him, the PIO is not supposed to create and collate the information.

According to the PIO, he has complied the order of the FAA dated 29/03/2023 and provided the detail reply on 25/04/2023.

10. The rival contention of the parties now falls for my consideration.
11. In this context it would be necessary to refer to the provisions of Section 2(f) and 2(j) of the Act, which reads as under:-

**"Definitions.** – *In this Act, unless the context otherwise requires, --*

*(f) "information" means **any material in any form**, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data **material held** in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;*

*(j) "right to information" means the right to **information accessible** under this Act which is held by or under the control of any public authority and includes the right to\_\_*

- i. inspection of work, documents, records;*
- ii. taking notes **extracts** or certified copies of documents or records;*
- iii. taking certified samples of material;*
- iv. obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"*

From the plain reading of the above, it is clear that, information can be something that is available in a material form and same is retrievable from the official records. Section 2(j) suggests that, PIO is required to supply such material in any form as held or under the control of public authority. The word any material in any form would mean any material concerning of the

affairs of the public authority such as decision , action, plan or schedule, copy of part of the file, copy of relevant correspondence, extracts, inspection, also it covers information in any form be it printed or written or stored in a computer or in any other device. In a nutshell, the definition of information is very exhaustive and it includes almost everything that comes under the ambit of public authority.

12. Right to Information means right to information accessible under the Act. Information which is not available with the public authority cannot be provided. There are two conditions which must be satisfied for obtaining the information under the Act, firstly the information be held by the public authority or should be under the control of public authority and secondly, the information must not be exempted from disclosure as per the Act.

13. A perusal of the reply of the PIO dated 27/01/2023 filed to the RTI application, it emerges that, the information has been denied as it is not available in the format as desired by the Appellant. The facts on record indicate that the PIO did not cite the provision of law under which he denied the purported information to the Appellant.

Through his reply dated 31/08/2023 in this second appeal the PIO, reiterated his stand and contended that, the information is not held in the manner desired by the Appellant and same is not readily available in the office of public authority. Refuting the above stand of the PIO, the Appellant in his rejoinder contended that, he is only seeking information as available in the office records without insisting in particular format.

14. Therefore at this stage, it is relevant to refer Section 7(9) of the Act which reads as under:-

## ***"7. Disposal of request***

*(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resource of the public authority or would be detrimental to the safety or preservation of the record in question."*

From bare reading of the above provision it is revealed that the PIO is required to provide information in the form in which the applicant has sought the information. However the disclosure of information need not be in the required format, if it is likely to divert the resources of a public authority. This provision does not allow the PIO to withhold the disclosure of information. In fact there is no provision in the Act to deny the information on such a ground.

15. Right to Information is a fundamental right therefore, denial of such right has to be backed by strong reason. Section 3 of the Act very significantly describes this right by stating "**Subject to the provisions of this Act, all citizens shall have the right to information**". Therefore, denial of information under the Act can only be based on the exemptions provided under Section 8 and/or 9 of the Act. Hence, I am of the considered opinion that refusal to disclose the information by the PIO is on a wrong footing and unsustainable in law.
16. It is an undisputed position on record that , the information sought for by the Appellant is generated and available in the office of public authority. In this context, certainly said information could be accessed by the PIO therefore, the stand taken by the PIO is completely erroneous and not acceptable.
17. It is also an admitted fact that, the information sought by the Appellant is not coming within the exemption clause of

Section 8 and/or 9 of the Act. Once having found that said information is not exempted under any provision of the Act, it is bounden duty of the PIO to furnish the information. Instead of taking such a nasty and strange ground to reject the information, the PIO certainly could have undertaken an exercise of reducing the data available in the manner as is sought by the Appellant.

18. The FAA by its order dated 29/03/2023 allowed the first appeal, the operative part of the said order reads as under:-

**"ORDER**

*Appeal filed by Mr. Joseph S. Carneiro dated 06/02/2023 stand disposed of with the direction to the Respondent to provide the information to the appellant as available in the office records and may not create the format, within 15 days of receipt of this order.*

*Pronounced in open court."*

On perusal of above it indicates that, the order given by the FAA is vague and ambiguous and does not arrive at a conclusive determination and eventually its execution leads to unending process and could lead to further litigation, as such the said order cannot be upheld or is justified.

19. In the case **J.P. Agarwal v/s Union of India (WP(c) 7232/2009)**, Hon'ble High Court of Delhi has recognised that PIOs are not merely "post offices" and have a crucial responsibility in facilitating the purpose of the RTI Act. The Court has held that:-

*"7..... The Act having required the PIOs to 'deal with' the request for information and to 'render reasonable assistance' to the information seekers, cannot be said to have intended the PIOs to be merely Post Offices as the petitioner would contend. The expression 'deal*



*with', in Karen Lambert Vs. London Borough of Southwark (2003) EWHC 2121 (Admin) was held to include everything right from receipt of the application till the issue of decision thereon. Under [Section 6\(1\)](#) and [7\(1\)](#) of the RTI Act, it is the PIO to whom the application is submitted and it is he who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. [Section 5\(4\)](#) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information, the PIO is expected to recommend a remedial action to be taken. The RTI Act makes the PIO the pivot for enforcing the implementation of the Act."*

20. The High Court of Delhi in the case of **Mujibur Rehman v/s Central Information Commission (LNIND 2009 DEL 8657)** has held that:-

*"The court cannot be unmindful of the circumstances under which the Act was framed, and brought into force. It seeks to foster an "openness culture" among state agencies, and a wider section of "public authorities" whose actions have a significant or lasting impact on the people and their lives. Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends, that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are*

*meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.”*

21. In another judgement Hon’ble Supreme Court in the case **Central Board of Secondary Education & another v/s Aditya Bandopadhyay (Civil Appeal No. 6454 of 2011)** has observed as under:-

*"12. Section 3 of RTI Act provides that subject to the provisions of this Act all citizens shall have the right to information. The term 'right to information' is defined in section 2(j) as the right to information accessible under the Act which is held by or under the control of any public authority. Having regard to section 3, the citizens have the right to access to all information held by or under the control of any public authority except those excluded or exempted under the Act. The object of the Act is to empower the citizens to fight against corruption and hold the Government and their instrumentalities accountable to the citizens, by providing them access to information regarding functioning of every public authority. "*

22. Hon’ble Supreme Court in the case of the **Institute of Chartered Accountant of India v/s Shaunak H. Satya & Ors. (C. A. No. 7571/2011)** has held that:-

*"25..... Public authorities should realize that in an era of transparency, previous practices of unwarranted secrecy have no longer a place. Accountability and prevention of corruption is possible only through transparency. Attaining transparency no doubt would involve additional work with reference to maintaining records and furnishing information. Parliament has*

*enacted the RTI Act providing access to information, after great debate and deliberations by the Civil Society and the Parliament. In its wisdom, the Parliament has chosen to exempt only certain categories of information from disclosure and certain organizations from the applicability of the Act.”*

23. RTI Act is a citizen friendly legislation and that the officials charged with the responsibility to implement the RTI regime must do so in a liberal manner and not by adopting a hyper technical approach which counters the letter and spirit of the Act.
24. Considering the facts and circumstances discussed hereinabove, I find merit in the appeal and consequently the present appeal is allowed with the following :-

### **ORDER**

- The appeal is allowed.
- The PIO, Shri. Gouresh G. Bugde, Joint Civil Registrar-Cum-Sub Registrar Bardez-II, Mapusa, Bardez-Goa is hereby directed to provide the information free of cost to the Appellant as per his RTI application dated 03/01/2023 within a period of **FIFTEEN DAYS** from the date of receipt of the order.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner