

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

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**Appeal No. 191/2021/SCIC**

Roy C. D'Souza,  
R/o. H. No. 525, Mesta Bhat,  
Merces-Ilhas, Goa 403005.

.....Appellant

V/S

1. Suhas Gaonkar,  
The Public Information Officer / Associate Professor,  
Goa College of Architecture,  
Altinho, Panaji-Goa 403001.

2. Ashish K. Rege,  
Officiating Principal,  
First Appellate Officer & Deemed PIO,  
Goa College of Architecture,  
Altinho, Panaji-Goa 403001.

3. Suman S. Diukar,  
Deemed PIO, Ex-Assistant Accounts Officer,  
(Now Retired),  
Goa College of Architecture,  
Altinho, Panaji-Goa 403001.

4. Maria Dias Juliao,  
Deemed PIO, Ex-Head Clerk,  
C/o. Salvador Braganza, H. No. 1233,  
Segundo Bairro, Santa Cruz,  
Ilhas-Goa 403005.

5. Edlina Maria Da Silva, Deemed PIO,  
Jr. Stenographer/ PA to Principal,  
Goa College of Architecture,  
Altinho, Panaji-Goa 403001.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 18/08/2021**

**Decided on: 13/07/2023**

**FACTS IN BRIEF**

1. The Appellant, Mr. Roy C. D'Souza, Associate Professor, Goa College Architecture at Altinho, Panaji-Goa, r/o. H.No. 525, Mesta Bhat, Merces, Ilhas - Goa has filed the present

contempt petition with the prayer to initiate disciplinary action against the Officiating Principal of Goa College of Architecture and two others for disobedience of the order of the Commission dated 09/01/2020 (wrongly termed as 16/01/2020) in Appeal No. 45/2019/CIC.

2. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 08/10/2021, the Respondent No. 1, PIO Shri. Suhas Gaonkar appeared and filed his reply on 08/10/2021, the Respondent No. 2, the FAA, Shri. Ashish Rege appeared and filed his reply on 12/11/2021 and 22/12/2022, the Respondent No. 3 and 4, the then APIOs and retired employees of public authority appeared on 08/10/2021 and submitted that they do not wish to file any reply in the matter. The Respondent No. 5 appeared and filed her reply on 16/12/2021.
3. It is the case of the Appellant that, while disposing the appeal bearing No. 45/2019/CIC on 09/01/2020, the Commission directed the public authority i.e. Goa College of Architecture to comply with the requirement of Section 4 of the Right to Information Act at the earliest and in any way not later than one hundred twenty days from the date of receipt of the order.

Further according to the Appellant, in order to know the status of an execution of an order of the Commission, he filed application under Section 6(1) of the Act on 15/01/2021 and sought information/ inspection at point No. 12 viz. information regarding the catalogued and indexing of files, documents, records etc. However, according to him the PIO has failed to provide complete information as sought by him, it is a grievance of the Appellant that the public authority miserably failed to comply with the order of the Commission.

He further contended that, the Respondent No. 2 being head of the public authority and the Principal of College, totally failed and neglected to obey the order of the Commission and hence, prayed to initiate disciplinary action against Respondent No. 2, 3 and 5. In support of his case he relied upon the judgement of Delhi High Court in the case **Delhi Development Commission & Anrs. v/s Central Information Commission & Anr. (W.P.(c) 12714/2009)**.

4. Refuting the contention of the Appellant, the Respondent No. 2 and 5 raised preliminary objection and contended that, present appeal filed by the Appellant is not maintainable as no provision of contempt is envisaged under RTI Act and prayed that the appeal be dismissed. In support of his submission, Respondent No. 2 placed on record the judgement of the High Court of Karnataka in the case **G. Basavaraju v/s Smt. Arundathi (AIR 2009 (2) Kar (R) 549)** and judgement of Gujarat High Court in the case **Muljibhai Bhurabhai v/s Upendra Vyas (2000 3 GLR 2339)**.
5. Perused the content of the contempt cum disobedience petition, replies, preliminary objections, rejoinder, scrutinised the documents, heard the arguments of the rival parties and considered the judgements relied upon by the parties.
6. Indisputably, the appeal of the Appellant which was filed before the Commission was dismissed on 09/01/2020 with the direction to the public authority viz. Goa College of Architecture to comply with the requirement of Section 4 of the RTI Act, within 120 days from the date of receipt of the order.
7. By this proceeding, purported as a contempt petition/ disobedience of order, the Appellant narrating sequence of events, submitted that the Respondent No. 2, 3 and 5 are responsible for non-compliance with the order of Commission dated 09/01/2020 and has prayed to initiate disciplinary action against them.

8. Having gone through the entire material on record, it revealed that, the Appellant, the PIO and the FAA at some point of time was / is designated as the PIO of the public authority. It is also a matter of fact that the Appellant, the PIO and the FAA is working in the reputed Goa College of Architecture at Altinho, Panaji-Goa and holding high positions of the public authority. However, it appears that there is lack of trust and confidence amongst them.
9. It is relevant to mention that, the Appellant has not filed either complaint proceeding under Section 18 nor an appeal under Section 19 of the Act. Subject to the provision of the Act, the information seeker can raise his grievance before the Commission either under Section 18 or 19 of the Act. No provision in the Act was brought to my notice from which it could be gathered that this Commission can enforce its own decision by way of contempt proceeding. In the circumstances from the perspective of the Act, the proceeding is premature and not tenable in law. Therefore, at this stage I will not proceed on the merits of the case.
10. A reference can be conveniently made to observation of the Hon'ble Supreme Court in the matter **Chief Information Commissioner & Anr. v/s State of Manipur & Anr. ((2011) 15 SCC-1)**, the court has observed thus:-

*"40. It is well known that when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. It is a time-honoured principle as early as from the decision in Taylor v/s Taylor, that where a statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden."*

11. In this context, it would be necessary to refer to the provisions of the Act. This Commission is constituted under the RTI Act with powers and functions more particularly provided under Section 18, 19 and 20 of the Act. Such powers consist of providing existing information held in any form or in case of non compliance of said mandate without reasonable cause then to penalise the PIO. These powers and functions are granted to the Commission by the statute, simply to provide the information to the information seeker.

12. The High Court of Bombay in the case **Shri Sandip Bhagvatrao Bhakare v/s Shri. Santosh Mohanlal Dave & Ors. (2022 (4) ALL MR 265)** has fortified the above ratio which reads as under:-

*"15. It is a settled position of law, that the provisions of a Statute have to be construed and read to have the meaning, power and authority, which is specifically conferred by the provisions of the said Statute and not otherwise. Nothing can be imported into the Statute which has not been provided therein, by adopting any device or means."*

13. The High Court of Delhi in the case of **Delhi Development Authority v/s Central Information Commission & Anrs (W.P. No.(c) 12714/2009)** has held that:

*"The Central Information Commission is not a court and certainly not a body which exercise plenary jurisdiction. The Central Information Commission is a creature of the Statute and its powers and functions are circumscribed by the statute. It does not exercise any power outside the statute."*

14. Adv. K.L. Bhagat, learned counsel appearing on behalf of Respondent No. 2 submitted that, the RTI Act does not vest the powers of contempt petition. He further contended that when adequate remedy under Section 20 of the Act is available, no contempt proceeding is maintainable. In order to support his contention he invited my attention to the judgement of High Court of Karnataka in the Case **G. Basavaraju v/s Arundathi (Supra)**. In paragraph 8 and 9 of the judgement the court has observed thus:-

*"8. Section 20(1) of the RTI Act enables the Commission to impose on the respondent before it, a penalty of two hundred and fifty rupees each day, till the information is furnished, subject to a total amount of twenty five thousand rupees. Prior to the imposition of such fine amount, it is mandatory that reasonable opportunity of hearing must be provided to the Public Information Officer – respondent. in addition, sub-section (2) thereof, enables the Commission that, if the concerned Public Information Officer, without any reasonable cause and persistently, has not furnished the information within time specified under sub-section(1) of the Section 7, to recommend for disciplinary action against the concerned Information Officer, under the Service Rules applicable to him. The provisions contained in Section 20 of the RTI Act shows that, the Commission has been conferred with the jurisdiction to penalize the defaulting officer by levy of penalty upto a total of Rs. 25,000/- and also recommend for disciplinary action under the Service Rules applicable to the defaulting officer. Thus, it is clear that, the RTI Act itself provides the procedure and remedy.*

*9. Section 20 of the RTI Act provides for penalties. It confers powers on the Commission on the basis of which it can enforce its order. The Act having provided for constitution of the Commission and the power to impose the penalties by way of levy of fine and also the statutory right to recommend to the Government for disciplinary action against the State Information Officer, itself has the necessary powers / provisions, in the form of the provision of Contempt of Courts Act. It is cardinal principle of interpretation of statute, well-settled by catena of decisions of the Apex Court, that, courts or Tribunals, must be held to possess power to execute its own order. Further, the RTI Act which is a self-contained code, even if it has not been specifically spelt out, must be deemed to have been conferred upon the Commission the power in order to make its order effective, by having recourse to Section 20.*

*10. The powers of the Commission to entertain and decide the complaints, necessarily shows that, the Commission has the necessary power to adjudicate the grievances and decide the matters brought before it, in terms of the provisions contained in the RTI Act. The legislative will, incorporating Section 20 in the RTI Act, conferring power on the Commission to impose the penalties, by necessary implication is to enable the Commission to do everything which is indispensable for the purpose of carrying out the purposes in view contemplated under the Act. In our considered view, provisions of Section 20 can be exercised by the Commission also to enforce its order.*

*12. In view of the powers conferred upon the Commission under Section 20 of the RTI Act, the complainant has to seek relief thereunder and consequently, this contempt petition is not maintainable.”*

15. The Hon’ble High Court of Bombay in the Case **Rajkumar Kishanlal Awasti v/s Bagve & Anr. (2012 (2) AIR Bom R 85)**, the court has observed as under:-

*“7. Section 19 confers right of preferring first appeal to a person who does not receive decision in the time specified in Sub-Section (1) of clause (a) of Sub-Section (3) of Section 7 or is aggrieved by the decision of Public Information Officer. When the Public Information Officer denies information, an appeal is competent before the First Appellate Authority. Essentially, the power of the Appellate Authority is to direct the Public Information Officer to provide information. The Appellate Authority has power to hear the parties and direct that the Appellant is entitled to information sought by him. The vesting of the power to decide whether the information should be provided or not as per the request made under Section 6 of the said Act would not make the Appellate Authority a Court within the meaning of the said Act of 1971.*

*The Appellate Authority under the said Act cannot be said to have power to give a judgment which has finality and authoritativeness. It is not possible to accept that the Appellate Authorities under the said Act are charged with a duty to decide the disputes in a judicial manner and to declare the rights of the parties*



*by a judgment. Even if the Appellate Authority under the said Act may act judicially, it does not become a Court. The Appellate Authority under the said Act cannot be said to have been entrusted with the judicial functions of a Court. The Appellate Authority does not have power to give a definitive judgment after considering the evidence having regard to the facts of the case and by application of law. The Appellate Authority may be a quasi-judicial Authority, but by no stretch of imagination, it can be said to be a Court within the meaning of Section 2(b) of the said Act of 1971. Therefore, wilful breach of the orders of the First Appellate Authority is not civil contempt.”*

16. In view of the above, I am of the considered opinion that, present contempt petition is not maintainable and hence dismissed.
- Proceedings closed.
  - Pronounced in the open court.
  - Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner