

**GOA STATE INFORMATION COMMISSION**  
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**Appeal No. 191/2022/SCIC**

Shri. Ashok Lobo,  
H.No. 200, Vaddem,  
Socorro, Bardez-Goa 403501.

.....Appellant

V/S

1. The Public Information Officer,  
Office of the Assistant Registrar of Co-operative Societies,  
Central Zone, Sahakar Bhavan,  
1<sup>st</sup> Floor, Opp. Municipal Market,  
Panaji-Goa.

2. The First Appellate Authority,  
Assistant Registrar of Co-operative Societies,  
Central Zone, Panaji-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 07/07/2022**

**Decided on: 20/03/2023**

**FACTS IN BRIEF**

1. The Appellant, Shri. Ashok Lobo r/o. H.No. 200, Vaddem, Socorro, Bardez-Goa vide his application dated 02/02/2022 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), Office of the Registrar of Co-operative Societies, Patto, Panaji-Goa:-

*"Kindly provide the following information under RTI Act, 2005 of the Housing Society by name Milroc Kadamba Co-op Housing Soc. Ltd. Bainguinim, Old Goa, Tiswadi Goa. The said Society is registered with your office under No. ARCS/CZ/HSG/806/7(b) Goa.*

*1. Register of Members maintained by Milroc Kadamba Co-op Housing Soc. Ltd. Bainguinim, Old Goa, Tiswadi-Goa.*

*2. Copy of Share Certificate issued to Silverio F Dias and his wife Maya Bruni Dias by Milroc Kadamba Co-op Housing Soc. Ltd. Bainguinim, Old Goa, Tiswadi-Goa.*

*3. Copy of counterfoil of the Share certificate issued to Silverio F Dias and his wife Maya Bruni Dias by Milroc Kadamba Co-op Housing Soc. Ltd. Bainguinim, Old Goa, Tiswadi-Goa.*

*4. Copy of the Annual Audit Report for the year 2020-2021 submitted by Milroc Kadamba Co-op Housing Soc. Ltd. Bainguinim, Old Goa, Tiswadi-Goa to the office of the Assistant Registrar of Co-operative Societies under sec 81 of the Goa Co-operative Societies Act, 2001."*

2. The office of Assistant Registrar of Co-operative Societies transferred the said application to the PIO, Assistant Registrar of Co-operative Societies, Central Zone at Panaji-Goa on 07/02/2022 under Section 6(3) of the Act for necessary action.
3. The PIO of the Assistant Registrar of Co-operative Societies, Central Zone by letter dated 21/02/2022 further transferred the said application to the Chairman / Secretary of Milroc Kadamba Co-operative Housing Society Limited, Bainguinim, Old Goa, Tiswadi-Goa requesting them to provide the information to the Appellant.
4. Whereas on the same day the PIO, ARCS Central Zone also responded to the Appellant in the following manner:-

*"I am to refer your application dated 02/02/2022, received by this office on 08/02/2022 on the subject cited above.*

*In this context, information sought by you is not specific and is also in questionnaire form, hence you are requested to visit this office during office hours on*

*any working day to verify the files maintained at the level of this office."*

5. Upon receiving the above intimation, the Appellant visited the office of the PIO on 28/02/2022, inspected the records and collected the available information from the PIO on same day.
6. Furthermore, the said PIO on 02/03/2022 also responded to the Appellant in a following manner:-

*"I am to refer to your application dated 02/02/2022, received by this office on 08/02/2022 on the subject cited above.*

*In this context, the information sought under point no. 1, 2 & 3 are not maintained at the level of this office.*

*As far as point No. 4 is concern, you may call on this office, on any working day during office hours to collect the same by paying necessary fees. This office has already provided you the other documents required by you during your visit to this office on 28/02/2022."*

7. Being aggrieved and dissatisfied with the reply of the PIO, the Appellant preferred first appeal before the Assistant Registrar of Co-operative Societies, Central Zone, at Panaji-Goa being the First Appellate Authority (FAA).
8. In the meantime the representative of the Milroc Kadamba Co-operative Housing Society Limited, Baiguinim Old Goa (in short society) by letter dated 02/05/2022 declined to furnish information to the public authority.
9. After hearing both the parties, the FAA was pleased to dismiss the first appeal vide its order dated 13/05/2022.

10. Aggrieved and dissatisfied with the order of the FAA, 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.
11. Notices were issued to the parties, pursuant to which the Appellant appeared alongwith his representative Adv. Omkar Kulkarni, the PIO Shri. Rama Parab appeared and filed his reply on 16/08/2022, the representative of the FAA, Shri. Amar Pednekar appeared and placed on record the written arguments of the FAA on 03/11/2022.
12. It is the case of the Appellant that, he sought certain information from the PIO, the Registrar of Co-operative Societies, Panaji-Goa pertains to Milroc Kadamba Co-operative Housing Society Limited, which is a registered Co-operative Society under No. ARCS/CZ/HSG/806/7(b) Goa.

According to the Appellant, the act of the PIO in transferring the RTI application to the society is illegal and unreasonable as the society is not a public authority under the Act.

Further, according to him that, the PIO ought to have called for the information rather than transferring the RTI application.

13. As against this, the PIO contended that, after receiving the RTI application, the then PIO issued a letter dated 21/02/2022 requesting the Appellant to visit the office and verify the records as the information sought by the Appellant was not specific. According to him then PIO also addressed letter to Chairman / Secretary, Milroc Kadamba Co-operative Housing Society Limited, Baiguinim Old Goa and requested them to provide the information to the Appellant under intimation to the office of the public authority.

Further, according to the PIO, the Appellant inspected the multiple files and collected the available information from the PIO on 28/02/2022.

Further, according to him, vide letter dated 02/05/2022 he received reply from the authorised signatories of the Society and informed that the Appellant is the promoter member of the society and Share certificate referred to him was already furnished to him being the member of society. However, Share certificate and its counter foil of an individual member cannot be shared being Share certificate is a legal document of an individual member.

14. Perused the pleadings, replies, scrutinised the documents on record, heard submissions and considered the judgement relied upon by the rival parties.
15. Considering the rival contention of the parties, the dispute arises for determination is :-

*"(i) Whether the Registrar of Co-operative Societies is empowered to call entire records from the society under the RTI Act ?"*

16. It is not in dispute that, with regards to information at point No. 4, the Appellant was called upon by the PIO on any working day during the office hours to collect the information. Admittedly, the Appellant visited the office of the PIO on 28/02/2022 and inspected the files and received copies of the following documents:-

- 1) Front page of Bye laws booklet of MK Coop Hsg Soc.*
- 2) Pg of promoter name- Sr # 226 to #244*
- 3) First pg of statement showing promoter member pg 1 to 27*
- 4) Pg of statement showing promoter members pg 214 to 245*

- 5) Annexure H- First pg Ser#1-21
- 6) Annexure H – Pg Ser# 354 – 379
- 7) Annexure A – First pg ser# 1 – 14
- 8) Annexure A - Pg w/ ser# 236 to 252

With regards to information at point No. 1, 2 and 3 it was informed to the Appellant that the said records are not maintained by the public authority.

17. Considering the nature of information sought by the Appellant in his RTI application dated 02/02/2022 at point No. 2 and 3 which is produced hereinabove at para No. 1 clearly indicates that, the Appellant is seeking the copy of the Share certificate and the copy of counter foil of Share certificate issued to Silverio F. Dias and his wife Maya Bruni Dias by the society.

18. At this stage, it would be appropriate to cite the observation of Hon'ble Supreme Court in the case **S. S. Rana v/s Registrar, Co-operative Societies & Anrs. (2006 11 SCC 634):-**

*"9. It is not in dispute that the Society has not been constituted under an Act. Its functions like any other cooperative society are mainly regulated in terms of the provisions of the Act, except as provided in the bye-laws of the Society. The State has no say in the functions of the Society. Membership, acquisition of shares and all other matters are governed by the bye-laws framed under the Act."*

19. In the Co-operative Housing Society, a Share certificate of the Society is a legal certification given by a housing society that a certain member is the registered owner of share in the co-operative society. Like a Sale Deed is the proof that the property has been transferred in your name, a Share certificate is legal proof that you are the rightful owner of the co-operative

housing society's shares. Therefore, the ownership of Share certificate is extremely important for a property owner in co-operative housing society, it acts as a legal document and certainly not a 'public records'. The said information amounts to personal information of the third party and which has no relationship with any public activity or serve any larger public interest.

20. Hon'ble Supreme Court in the case **Thalappalam Service Co-operative Bank Limited & Ors. v/s State of Kerala & Ors. ((2013) 16 SCC 82)** has observed as under:-

*"52. Registrar of Cooperative Societies functioning under the [Cooperative Societies Act](#) is a public authority within the meaning of [Section 2\(h\)](#) of the Act. As a public authority, Registrar of Co-operative Societies has been conferred with lot of statutory powers under the respective Act under which he is functioning. He is also duty bound to comply with the obligations under the [RTI Act](#) and furnish information to a citizen under the [RTI Act](#). Information which he is expected to provide is the information enumerated in [Section 2\(f\)](#) of the [RTI Act](#) subject to the limitations provided under [Section 8](#) of the Act. Registrar can also, to the extent law permits, gather information from a Society, on which he has supervisory or administrative control under the [Cooperative Societies Act](#). Consequently, apart from the information as is available to him, under [Section 2\(f\)](#), he can also gather those information from the Society, to the extent permitted by law. Registrar is also not obliged to disclose those information if those information fall under [Section 8\(1\)\(j\)](#) of the Act. No provision has been brought to our*

*knowledge indicating that, under the [Cooperative Societies Act](#), a Registrar can call for the details of the bank accounts maintained by the citizens or members in a cooperative bank. Only those information which a Registrar of Cooperative Societies can have access under the [Cooperative Societies Act](#) from a Society could be said to be the information which is "held" or "under the control of public authority". Even those information, Registrar, as already indicated, is not legally obliged to provide if those information falls under the exempted category mentioned in [Section 8\(j\)](#) of the Act. Apart from the Registrar of Co-operative Societies, there may be other public authorities who can access information from a Co-operative Bank of a private account maintained by a member of Society under law, in the event of which, in a given situation, the society will have to part with that information. But the demand should have statutory backing.*

**53.** *Consequently, an information which has been sought for relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual, the Registrar of Cooperative Societies, even if he has got that information, is not bound to furnish the same to an applicant, unless he is satisfied that the larger public interest justifies the disclosure of such information, that too, for reasons to be recorded in writing."*



21. In the recent Judgement the High Court of Jammu and Kashmir and Ladakh in the case **Tyndale Biscoe School & Ors. v/s Union Territory of J&K & Ors. (AIR 2022 J&K 112)** in which it is held that:-

*"15. The society herein need not be a public authority but if the information lying with such private body can be accessed by the public authority under law, the same can be provided by public authority on an application filed by an information seeker. This, however, does not mean that such public authority shall have absolutely no say in the matter. Section 8 of the Act of 2005, which is a non obstante provision overriding other provisions of the Act, lays down exceptions and rules when information sought is not required to be furnished. It is only such information relating to a private body as can be legally and legitimately accessed by a public authority under any other law for the time being in force, which can be provided by the public authority to the information seeker."*

22. The High Court of Delhi in the case **Poorna Prajna Public School v/s Central Information Commission & Ors. (2009 SCC Online Del. 3077)** has held as under:-

*"15..... As a private body, the Petitioner School is entitled to plead that they cannot be compelled to furnish information because the public authority is not entitled to information/ documents under the law. The Petitioner school can also claim that information should not be furnished because it falls under any of the sub-clauses to Section 8 of the RTI Act. Any such claim, when made, has to be considered by the public*

*information officer, first appellate authority and the CIC. in other words, a private body will be entitled to the same protection as is available to a public authority including protection against unwarranted invasion of privacy unless there is a finding that the disclosure is in larger public interest. ”*

Considering the above ratio, I do not find any merit in the submission made by Adv. Omkar Kulkarni that, the Registrar of Co-operative Societies is empowered to call entire record of Milroc Kadamba Co-operative Housing Society Limited at Bainguinim, Old Goa.

23. The Registrar of Co-operative Societies exercises only supervisory and indirect control and the real control are exercised by the Management of the Society. Therefore, the Registrar of Co-operative Societies cannot call entire records from the society. However, the Registrar of Co-operative Societies has power to access the records pertaining to information at point No. 1 under the Maharashtra Co-operative Societies Act 1960 as the said Act further makes it mandatory on the part of the societies to part with the information to the office of the Registrar of Co-operative Societies whenever called for.

24. In the present case, records indicate that, the PIO has furnished all the available information to the Appellant on 28/02/2022. The PIO also offered the information at point No. 4 i.e. Annual Report for the year 2020-2021 of the Society. Information sought for by the Appellant at point No. 2 and 3 cannot be granted as it would cause unwarranted invasion of a privacy of an individual and hence rejected. In view if above the appeal is partly allowed with the following:-

## **ORDER**

- The appeal is partly allowed.
- Shri. Rama Parab, the Public Information Officer(PIO), Assistant Registrar of Co-operative Societies, Central Zone, Panaji-Goa is directed to provide the information at point No. 1 to the Appellant as per his RTI application dated 02/02/2022 within the period of **THREE WEEKS** 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