

**GOA STATE INFORMATION COMMISSION**  
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**Appeal No. 224/2022/SIC**

Sunil M. Jaralika,  
R/o. H.No. 23/42, Sarthak Nivas,  
Krishnavihar, Lane 1,  
Behind Sai Service,  
Curti, Ponda-Goa, 403401.

.....Appellant

V/S

1. The Public Information Officer,  
Government Polytechnic Bicholim,  
Mayem-Bicholim, Goa, 403504.

2. First Appellate Authority (RT Act),  
The Principal,  
Government Polytechnic Bicholim,  
Mayem-Bicholim, Goa, 403504.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 19/08/2022**

**Decided on: 25/07/2023**

**FACTS IN BRIEF**

1. The Appellant, Shri. Sunil. M. Jaralika, Lecturer in Electrical Engineering, Government Polytechnic, Mayem, Bicholim-Goa vide his application dated 08/03/2022 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), Government Polytechnic, Mayem, Bicholim-Goa:-

*"This is request you to provide the following information to the undersigned under the RTI Act, 2005:-*

- 1) *Allow the inspection of the log books of the light motor vehicles of Govt. Polytechnic, Bicholim namely Maruti Zen & Tata Sumo maintained in the transport / Stores section of GPB since 1<sup>st</sup> January 2017 till date and the same for Swift D Zire since it was purchased and put to use of GPB to till date.*

*It is hereby requested to provide certified copies of only those log book pages that would be identified and requested for issue by the under signed during the inspection of the same.*

- 2) *Allow the inspection of the inward & outward registers maintained by the Administration Section of GPB since January 2019 onwards till date.*

*It is hereby requested to provide certified copies of only those pages of the inward & outward registers that would be identified and requested for issue by the under signed during the inspection of the same.*

- 3) *Allow the inspection of the personal file of the undersigned maintained by the Administration Section of GPB since Sept. 2008 onwards till date.*

*It is hereby requested to provide certified copies of only those note sheets and documents in the personal file that would be identified and requested for issue by the under signed during the inspection of the same.*

- 4) *Provide certified copies of EL applications and corresponding EL sanction orders showing the details of Earned Leave availed by Shri. Subhash P. Borkar, the Principal, GPB annually during the last five years starting from January 2017 onwards till date.*

- 5) *Provide the certified copies of EL, CCL Paternity leave and LTC applications and their corresponding leave sanctioning order in each case showing the details of Earned Leave, CCL paternity leave and LTC availed by the teaching faculty of GPB annually during the last five years starting from January 2017 onwards to till date."*

2. The said application was responded by the PIO on 24/03/2022 in the following manner:-

<i>Point</i>	<i>Reply</i>
<i>Point No. 1</i>	<i>Information sought is available for inspection</i>
<i>Point No. 2</i>	<i>Information sought is available for inspection</i>
<i>Point No. 3</i>	<i>Information sought is available for inspection</i>
<i>Point No. 4</i>	<i>Information sought is available. You are therefore requested to deposit a sum of Rs. 92/- (Rupees Ninety Two only) in the Accounts Section of Government Polytechnic Bicholim towards obtaining the information.  The rates are Rs. 02/- per page (in A4 or A3 size paper) created or copied.</i>
<i>Point No. 5</i>	<i>Information sought is available. You are therefore requested to deposit a sum of Rs. Approx. 520/- (Rupees Five Hundred Twenty only) in the Accounts Section of Government Polytechnic Bicholim towards obtaining the information.  The rates are Rs. 02/- per page (in A4 or A3 size paper) created or copied.</i>

*You are therefore requested to visit Administrative Section of Government Polytechnic, Bicholim on Friday 25/03/2022 at 03:30 pm for inspection. As per notification DI/INF/RTI/BILL/05/6474 clause 3(2)(d) for inspection of records, no fee for first hour and a fee of Rs. 5/- for each subsequent hour (or fraction thereof) thereafter.*

3. Upon receipt of the reply from the PIO, the Appellant collected the information at point No. 4 on 29/03/2022, by paying the requisite fee of Rs. 92/-.

4. Not satisfied with the reply of the PIO, the Appellant by letter dated 30/03/2022 pointed out the shortfall in the information provided to him. He also informed the PIO that, as far as the information at point No. 5 is concerned he will inspect the file first and identify the required documents.
5. Accordingly the inspection of information was granted to the Appellant on 25/03/2022, 28/03/2022 and 29/03/2022. Thereafter, the PIO by letter dated 05/04/2022 intimated the Appellant to deposit a sum of Rs. 1219/- to take out photocopies of identified documents, accordingly, the Appellant deposited said amount on 06/04/2022. However, according to the Appellant, the purported information has been supplied to him only on 13/04/2022.
6. Feeling aggrieved with the delay in furnishing the information and also for providing incomplete and incorrect information, the Appellant preferred first appeal before the Principal, Government Polytechnic Bicholim, Goa being the First Appellate Authority (FAA).
7. The FAA by its order dated 06/06/2022, allowed the appeal partly and directed the PIO to furnish the photocopies of the log book to the Appellant within 15 days.
8. Being aggrieved and dissatisfied with the order of the FAA dated 06/06/2022, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act, with the prayer to impose the penalty on the PIO for causing delay in furnishing the information and also for providing incorrect and incomplete information, to reimburse the fee of Rs. 1219/- collected by the public authority and to quash and set-aside the order of the FAA dated 06/06/2022.
9. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 04/10/2022, the PIO, Ashish Prabhu

appeared and filed his reply on 01/11/2022, Adv. K.L. Bhagat filed his memo of appearance and placed on record the reply of the FAA dated 01/11/2022.

10. Admittedly, by paying requisite fee, the Appellant has collected the information at point No. 4 on 29/03/2022. It is also matter of fact that the information at point No. 2,3 and 5 has been collected by the Appellant on 13/04/2022 by paying requisite fee of Rs. 1219/-. As a clarification to his earliest reply, the PIO also furnished illegible photocopies of log book and additional documents to the Appellant on 31/03/2022 during the proceeding of this second appeal.

11. It is the case of the Appellant that, the PIO has failed and neglected to provide the information within stipulated time of 30 days. Therefore, under Section 7(6) of the Act he is entitled for free of cost information and consequently the amount deposited by him amounting to Rs. 1219/- be directed to be reimbursed to him.

Further, according to the Appellant, the PIO failed to provide complete information and did not invoke Section 6(3) of the Act in time bound manner and prayed that PIO be penalised for denying the information.

12. On the other hand, the PIO through his reply dated 01/11/2022 contended that, the information sought for by the Appellant was voluminous and bulky information pertaining to the data of five years and concerning to different sections and distinct files of the public authority.

Further according to the PIO, vide letter dated 24/03/2022, he informed the Appellant that the information sought at point No. 1,2 and 3 were available for inspection and with regards to the information at point No. 4 and 5, the Appellant was requested to

deposit the amount of Rs. 92/- and 520/- respectively in Account Section of public authority and requested the Appellant to appear on 25/03/2022 at 3:30 pm for inspection and identification of the information.

Further according to the PIO, the Appellant has carried out the inspection on 25/03/2022, 28/03/2022 and on 29/03/2022 and whereof a span of three days time was taken by the Appellant for inspection and indentifying the documents.

Further, according to the PIO by letter dated 05/04/2023, he intimated the calculated amount to be deposited to obtain photocopies of the said documents. The Appellant deposited the amount on 06/04/2022. The PIO further contended that vide letter dated 08/04/2022, he informed the Appellant that as the information sought was voluminous in nature , additional time would be required to certify the same and eventually all the available information has been provided to the Appellant on 13/04/2022.

13. The FAA through his reply dated 01/11/2022 contended that, he received the first appeal on 26/05/2022 and after hearing both the parties he disposed off the first appeal on 06/06/2022 as per his wisdom.

Further, according to him, the responsibility assigned to the FAA under the RTI Act is only to entertain and dispose of the first appeals within stipulated time.

Further, according to him, he was designated FAA of Government Polytechnic, Bicholim by virtue of appointment made by the Government of Goa through Directorate of Technical Education and being the FAA, he himself is not empowered to appoint any substitute FAA, under any provision of the RTI Act, in case of any allegation of conflict of interest.

14. I have perused the pleadings, replies, rejoinder, written submissions, scrutinised the documents on record and considered the judgement relied upon by them.
15. It is the grievance of the Appellant that, there is a delay in providing the information. On perusal of records, it is revealed that, except the information at point No. 5, all the requirements of the Appellant were in the form of inspection and also certified copies of the identified documents. Record also reveals that, the information sought was voluminous data of about 600 plus pages. If at the relevant time, the purported information is not readily available or not held by the PIO, it is nothing wrong on the part of the PIO in seeking time to furnish the information. It is also pertinent to note that, the Appellant himself has taken three days sweet time to inspect and identify the required documents. Hence, one cannot expect the PIO to furnish the voluminous information in the said period of thirty days. Besides by letter dated 08/04/2022, the PIO categorically sought extension of time to furnish the information. Considering the above, in my view the PIO is not solely responsible for causing the delay in furnishing the information.
16. The Hon'ble High Court of Punjab and Haryana in the case of **Dalbir Singh V/s Chief Information Commissioner (C.W.P. 18694 of 2011)** has held as under:-

*"There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner."*

17. Apart from that, the delay caused in furnishing the information is marginal delay of 5 days. I therefore hold that delay is marginal and has been sufficiently justified. The Hon'ble High Court of Bombay, Goa Bench at Panaji in case **Public Authority Officer of Chief Engineer, Panaji v/s Shri. Yeshwant Tolio Sawant ( W.P. No. 704/2012)** while considering the issue of marginal delay has held as under:-

*"6. .... The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."*

18. The Hon'ble High Court of Punjab in the case **State of Punjab & Ors. v/s State Information Commissioner & Ors. (LNIND 2010 PNH 2809)** has observed as under:-

*"The delay was not inordinate and there was no contumacious misconduct on the part of the officer to supply to the petitioner the information. The penalty provisions under Section 20 of the RTI Act are only to sensitize the public authorities that they should act with all due alacrity and not hold up the information which a person seek to obtain. It is not every delay that should be visited with penalty."*



19. It is next grievance of the Appellant that, information at serial No. 1,2,3 and 5 has been provided beyond stipulated time of 30 days and therefore he prayed that amount of Rs. 1219/- deposited by him be directed to reimbursed to him.

Now the question for determination before the Commission is whether Appellant is entitled for information free of charge. Under Section 7(1) of the Act, the PIO is required to dispose the request of seeker within 30days. Sub Section 2 of Section 7 of the Act provides that, when the PIO fails to give decision on the request for information within the period specified, it shall be deemed to have refused the request for giving information. The records reveal that the PIO has taken the decision and replied the RTI application on 23/03/2022 directing the Appellant to pay the requisite fee. As the information was voluminous and was under the process photocopying, the PIO by another letter dated 08/04/2022 sought extension of time to furnish the information. The position that emerge from the above that, the PIO has already informed the decision of the public authority, therefore the Appellant cannot resort to recourse of Section 7 (2) of the Act. In my considered opinion there is no denial of information by the PIO. It is the duty of the PIO to see that under the garb of supplying the information no loss is caused to the public exchequer. In the above circumstances, I am not convinced that Appellant is entitled for information free of cost or to refund the fee which was collected towards the supply of information.

20. It is the next grievance of the Appellant that the order of the FAA is null and void in the eyes of law as the FAA has decided his own case and which is ethically incorrect and strenuously emphasised to quash and set-aside the order of FAA dated 06/06/2022.

21. Under the Act, the PIO is designated representative of the department to ensure compliance with the RTI Act. He plays the pivotal role for implementation of the Act, he is duty bound to obtain the information either from the subordinate or superior officer and then furnish the same to the information seeker.

On the contrary, First Appellate Authority (FAA) is the officer who is senior in rank to the PIO of the public authority. Any person who is aggrieved with a decision of the PIO may within 30 days from the receipt of the reply, prefer a first appeal under Section 19(1) of the Act. The main reason to prefer first appeal is that, the applicant is not satisfied with the information provided by the PIO. The FAA has got quasi-judicial powers to go into the aspect and to take the judicious decision within 30 days from the date of receipt of the first appeal. The RTI Act does not provide for an independent forum to entertain and decide the first appeal. This procedure is prescribed by the statute. There is no provision brought to my notice that under the Act, the FAA is debarred from hear and dispose the first appeal if the information sought for is related to the duty and functions of the FAA. Nevertheless, the FAA also has no authority to appoint any substitute FAA.

22. In the present case, the FAA upon receiving the first appeal on 26/05/2022 heard both the parties and disposed off the appeal on 06/06/2022 by passing the speaking order. On meticulous reading of the order passed by the FAA it appears that, the order of the FAA is just and equitable in the facts of the case. I do not find any palpable or jurisdictional error in the reasoning of the order. Besides, I also do not find any injustice/hardship caused to the Appellant by virtue of said order of the FAA. Therefore, I find no force in the argument of the Appellant that injustice has been caused to the Appellant.

23. Another grievance of the Appellant is that, the PIO has failed to provide the information with regards to the sanction of Earned Leave (EL) of the Principal of Government Polytechnic Bicholim. However, the PIO through his additional reply dated 31/03/2023 clarified that, copy of Earned Leave application which was available in office records were furnished to the Appellant. According to the PIO, the original E.L. applications of the Principal are always forwarded for sanction of the Director of Education, therefore sanction order endorsement always remains with them and not in the official records of the public authority.

The RTI Act provides access to all information that is available and existing, however, if the information is not the part of the records of public authority and where such information is not required to be maintained under any law or rules of the public authority, the Act does not cast an obligation on the PIO, to furnish the information.

24. The High Court of Delhi in the case **The Registrar, Supreme Court of India v/s Commodore Lokesh K. Batra & Ors. (W.P. No. 6634/2011)** has held that:-

*"Insofar as the question of disclosing information that is not available with the public authority is concerned, the law is now well settled that the Act does not enjoin a public authority to create, collect or collate information that is not available with it. There is no obligation on a public authority to process any information in order to create further information as is sought by an applicant."*

25. In the present case, the Appellant has filed his RTI application on 08/03/2022, same is replied by the PIO on 24/03/2022. If the information sought for is voluminous and bulky there is nothing wrong on the part of the PIO to seek time in

furnishing the information. This is certainly not the case where the PIO is unwilling to furnish the information on the contrary the PIO offered the inspection of all records to the satisfaction of the Appellant for three days.

26. The High Court of Andhra Pradesh in **Divakar S. Natarajan v/s State of Information Commissioner A.P. (AIR 2009 (NOC) 1362 (AP))** has held that:-

*"26. The Act is an effective devise, which if utilised judiciously and properly, would help the citizen to become more informed. It no doubt relieves an applicant from the obligation to disclose the reason as to why he wants the information. However, indiscriminate efforts to secure information just for the sake of it, and without there being any useful purpose to serve, would only put enormous pressure on the limited human resources, that are available. Diversion of such resources, for this task would obviously, be, at the cost of ordinary functioning. Beyond a point, it may even become harassment for the concerned agencies. Much needs to be done in this direction to impart a sense of responsibility on those, who want to derive benefit under the Act, to be more practical and realistic."*

27. In the background of the above precedents and the facts and circumstances discussed hereinabove, I do not find anything on record to show that the PIO has acted contrary. The Commission does not find any fault in the conduct of the PIO in order to impose penalty as prayed by the Appellant. In the above circumstances, I find no merit in the appeal and therefore dispose the appeal with following:-

## **ORDER**

- The appeal is dismissed.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner