

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

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Appeal No. 231/2022/SCIC

Antonio Jose de Souza,
H.No. 1/133-A, Gauravaddo,
Calangute, Bardez-Goa.
403516.

.....Appellant

V/S

1. The Public Information Officer,
Civil Registrar-cum-Sub-Registrar, (HQ),
Head of Notary Services,
7th Floor, Shramashakti Bhawan,
Patto, Panaji-Goa 403001.

2. Adv. Prabhakar G. Narulkar,
Notary Public Reg. No. 40/90,
Office No. 105, Saldhanha Business Towers,
Block E, 1st Floor, Near Mapusa Court,
Mapusa, Bardez-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 23/08/2022
Decided on: 06/03/2023

ORDER

1. The Appellant, Mr. Antonio Jose de Souza r/o. H. No. 1/133-A, Gauravaddo, Calangute, Bardez-Goa vide application dated 02/02/2022 filed through Registered Post under the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), the State Registrar cum Head of Notary Services, Shram Shakti Bhavan, Patto, Panaji-Goa.
2. The PIO of the Civil Registrar cum Sub-Registrar (HQ), office of the State Registrar cum Head Notary Services transferred the said application to Respondent No. 2, Notary Public Adv. Prabhakar G. Narulkar, Mapusa, Bardez-Goa on 09/02/2022 under Section 6(3) of the Act.

3. Aggrieved and not satisfied with the decision of the Respondent No. 1(PIO), the Appellant preferred first appeal before the State Registrar cum Head Notary Services at Panaji-Goa being the First Appellate Authority (FAA), under Section 19(1) of the Act.
4. The FAA vide its order dated 03/08/2022 allowed the first appeal and directed the Respondent No. 2, to furnish the desired information to the Appellant within 15 days.
5. Since the PIO failed and neglected to comply the order of the FAA dated 03/08/2022, the Appellant landed before the Commission with this second appeal under Section 19(3) of the Act.
6. Notices were issued to the parties, pursuant to which the Appellant appeared on 04/10/2022, representative of the PIO, Ms. Prachi Naik appeared on 04/10/2022, however, opted not to file any reply in the matter. Representative of the Respondent No. 2, Adv. Siddesh S. Bhaip appeared and placed on record his wakalatanama on 04/10/2022 and submitted that he is ready and willing to furnish the information. The Commission therefore directed the Adv. S.S. Bhaip to furnish the information to the Appellant on next date of hearing and matter was posted for compliance on 11/11/2022.
7. In the course of hearing on 11/11/2022, Adv. S. S. Bhaip appeared and placed on record the reply of the Respondent No. 2 and also furnished bunch of documents to the Appellant. The Appellant sought time to scrutinise the documents and matter was posted for clarification on 15/12/2022.
8. On next date of hearing, the Appellant appeared and submitted that he is not satisfied with the documents furnished by the Respondent No. 2. In order to avoid any ambiguities and for better clarification, the Commission directed Adv. S.S. Bhaip to file point wise reply.

9. Accordingly, on next date of hearing viz 27/01/2023, Adv. A. Mandrekar appeared on behalf of Respondent No. 2 and furnished point wise reply and submitted that he has furnished all the available information to the Appellant.
10. On perusal of the record it can be seen that, pursuant to the order of the FAA dated 03/08/2022, the Respondent No. 2 by a Registered A/D letter dated 20/10/2022 requested the Appellant to collect the information from his office. The said Registered A/D letter dispatched to the Appellant, returned back with the postal endorsement "*Party Refused. Return to sender.*" From the above it indicates that there was no malafide intention on the part of the Respondent No. 2.
11. The Appellant through his written submissions alleged that, Respondent No. 2 has blindly attested the documents as 'true copies' without verifying the original documents. According to the Appellant, the said documents pertains to his predecessors in title and attestation which was done was clandestine by the Respondent No. 2 only to help Mr. Jerome Cajetan D'Souza, who in turn submitted the said documents to the Court and obtained ex-parte order from the Civil Court in Regular Civil Suit No. 29/2009/F.
12. The Commission does not accede with the argument of the Appellant. As in which the Respondent No. 2 is a Notary Public having registration No. 40/90 and powers of authentication of documents are granted to him under Goa Notaries Act 1952. If the Appellant feels that he is not performing his duty in proper manner or doing something contrary to the law, he can approach concerned competent authority on the basis of information furnished to him. This is purely a grievance issue and can be addressed through the grievance redressal mechanism. No such matters fall within the ambit of RTI Act.

13. Under the Act, the Respondent No. 2 is expected to furnish the information in the form and the manner in which it exists. In the present case, upon the direction of the Commission, the Respondent No. 2 filed point wise reply and furnished all the information.

14. The High Court of Andhra Pradesh in the case of **Divakar S. Natarajan v/s State Information Commissioner (W.P. No. 20182/2008)** has held that:-

"16. The Act has comprehensively defined the word 'information'. It takes in its fold large variety of sources of information, including documents, emails, opinions, press release, models and data materials etc. The common feature of various categories mentioned in the definition is that they exist in one form or the other and the PIO has only to furnish the same, by way of copy or description. In contrast the reasons or basis as to why a particular state of affairs exists or does not exist cannot be treated as a sources or item of information."

15. The Delhi High Court in the case **Union of India v/s Central Information Commission & P.D. Khandelwad (Writ Petition No. 8396/2009)** has observed as under:-

"..... Central or State Information Commissions cannot examine the correctness of the decision / directions of the public authority or the competent authority or the appropriate government under the RTI Act.

48..... Central or State Information Commission have been created under the statute and have to exercise their powers within four corners of the statute. They

are not substitute or alternative adjudicators of all legal rights and cannot decide and adjudicate claims and dispute other than matters specified in Section 18 and 19 of the RTI Act.”

16. In the present case, the order of the FAA is just and equitable in the facts of the case. In the interest of justice, the FAA directed the Respondent No. 1 to instruct the Respondent No. 2 to furnish the information. The order of the FAA is complied with by the Respondent No. 2. Therefore, I am not inclined to impose penalty on the Respondents.

17. The Appellant also prayed that, both the Respondents be directed to pay the compensation of Rs. 25,000/- (Rupees Twenty Five Thousand only) for delay in providing the information. However, he did not make out any specific plea for amount of loss or shown quantum of actual damage caused to him. Such a relief cannot be granted to the Appellant being irrational and completely unfounded. To substantiate it, a reference can be conveniently made to the recent judgement of the High Court of Bombay, Goa Bench in the case **Santana Nazareth v/s State of Goa & Ors. (2022 (6) ALL MR 102)**, paragraph 4 of the said judgement being relevant is quoted below:-

"4..... compensation as in Section 19(8)(b) is intended to be provided to the information seeker by the public authority on proof of loss or sufferance of detriment by the former because of negligence, carelessness or recalcitrance of the later. Merely because the petitioner was found to have suffered hardship did not entitle her to payment of compensation unless a case of loss or sufferance of detriment was specifically set up in the appeal.”

Therefore I am also not inclined to grant the relief at prayer No. (b) of the appeal.

18. Considering the facts and circumstances, the appeal stands dismissed.

- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner