

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website:www.gsic.goa.gov.in

Appeal No. 239/2023/SCIC

Shri. Jawaharlal T. Shetye,
H.No. 35/A, Ward No. 11,
Khorlim-Mapusa, Goa 403507.

.....Appellant

V/S

1. The Public Information Officer,
The Secretary of Village Panchayat Tivim,
Tivim, Bardez-Goa 403507.

2. The First Appellate Authority,
Block Development Officer-I,
Mapusa, Bardez-Goa 403507.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 14/07/2023
Decided on: 27/10/2023

ORDER

1. The Appellant, Shri. Jawaharlal T. Shetye r/o. H.No. 35/A, Ward No. 11, Khorlim-Mapusa, Goa by his application dated 03/03/2023 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), the Secretary, Village Panchayat Tivim, Bardez-Goa.
2. The said application was responded by the PIO on 31/03/2023 in the following manner:-

"With reference to your application dated 03-03-2023, I am furnishing information point wise as given below as requested by you:-

1. Point No. 1 : Not Traceable.
2. Point No. 2 : Not Traceable.
3. Point No. 3 : Not Available.
4. Point No. 4 : Enclosed List.

This is for kind information."

3. Being aggrieved and dissatisfied with the reply of the PIO, the Appellant preferred first appeal before the Block Development Officer-I, Mapusa, Bardez-Goa on 05/04/2023, being the First Appellate Authority (FAA).
4. The FAA by its order dated 11/05/2023 allowed the first appeal and directed the PIO to provide the information at point No. 2 to the Appellant, within the period of fifteen days.
5. Since the PIO failed and neglected to comply with the order of the FAA dated 11/05/2023, 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 correct information and to impose penalty on the PIO for denying the information.
6. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 22/08/2023, the representative of the PIO, Adv. Kanchan Ekoskar appeared and collected the copy of the appeal memo on 22/08/2023 and sought time to file reply in the matter. The representative of the FAA, Shri. Umesh Shetgaonkar appeared on 22/08/2023. Opportunity granted to the PIO/ FAA to file reply in the matter and matter was posted for reply on 15/09/2023.
7. In the course of hearing on 15/09/2023, Adv. K. Ekoskar appeared and placed on record the reply of the PIO alongwith bunch of documents and submitted that she has furnished the information at point No. 1 and 4 to the Appellant and with regards to information at point No. 2 and 3 no information is available with the records of the public authority.
8. On perusal of an Affidavit in reply dated 13/09/2023 filed by the PIO, the PIO did not deny content of the proceeding of the Meeting held on 15/11/2005 by Village Panchayat Tivim. The proceeding

sheet of the meeting dated 15/11/2002 clearly suggest the one Smt. Roshani Gadekar filed application to issue separate house number alongwith Affidavit from the owner of the house bearing no. 8(1)(A) same was placed in the Panchayat meeting and after discussion they decided to issue separate house number. From the above, it emerge that said information has been generated in the office of the public authority on 15/11/2002. Once it is established that information is generated in the office of the public authority, the PIO is duty bound to maintain and furnish the said information unless it is weeded out by legal course of action. However, in the case in hand, the PIO denied to disseminate the information with reason 'not traceable'. The RTI Act does not acknowledge the expression 'not traceable' as being the ground for denial of information.

9. The RTI Act is based on principle of maximum disclosure. The Principle of maximum disclosure means that all information held by the public authorities is accessible to the public as a matter of principle except in a very limited circumstance as outlined in Section 8 and 9 of the Act.

Where the PIO seeks to deny access to information it should justify the refusal. In the case in hand, the PIO refused to disseminate the information without any basis of law and same is not tenable. No reasonable cause or logic has been shown by the PIO to deny the information.

10. The 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 the 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.”

11. 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.”

12. Considering the above, I find that information at point No. 2 has been denied on wrong footing and not at all justifiable by law. In the backdrop of above, the appeal is partly allowed with the following:-

ORDER

- The appeal is partly allowed.
- The PIO, Shri. Dhiraj J. Govekar, Secretary of Village Panchayat Tivim, Bardez-Goa is directed to comply with the order of the FAA dated 11/05/2023 and provide the information free of cost to the Appellant with regards to point No. 2 of his RTI application dated 03/03/2023 within the period of **FIFTEEN DAYS** from the date of the receipt of the order.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner