

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. 263/2022/SCIC

Mr. Percy Gomes,
Resident of H.No. 674,
Near Children Park,
Gogol, Margao-Goa.

.....Appellant

V/S

1. The Public Information Officer,
Revenue Department,
Margao Municipal Council,
Margoa-Goa.

2. The Chief Officer,
Margao Municipal Council,
Margoa-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 11/10/2022

Decided on: 08/02/2023

FACTS IN BRIEF

1. The Appellant, Mr. Percy Gomes, r/o. H.No. 674, Near Children Park, Gogol, Margao-Goa vide application dated 09/05/2022 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), Margao Municipal Council, Margao-Goa:-

"The details of the information required is as under:-

- a) Inform me in whose name the house bearing No. 3/75 stands recorded in the records of Margao Municipal Council, Margao, Goa and since from which year till date.*
- b) Also inform me the name and other detail of the person who has paid house tax of house bearing No. 3/75 for the last two years.*

c) Furnish me the copies of documents based on which house bearing No. 3/75 was assessed for the purpose of tax.

The above documents are required for personal record."

2. The said application was responded by the PIO on 14/06/2022 in the following manner:-

| <i>Sr.No.</i> | <i>Information sought</i> | <i>Information furnished</i> |
|---------------|-----------------------------------|--|
| <i>1.</i> | <i>With regards to point no 1</i> | <i>House tax bearing no 3/75 stands in the name of Francisco Gomes since 1972 till date.</i> |
| <i>2.</i> | <i>With regards to point no 2</i> | <i>As per the office record the name is not mentioned by whom the house tax is paid</i> |
| <i>3.</i> | <i>With regards to point no 3</i> | <i>Copies to be provided on payment of Rs. 18/- (Rupees Eighteen only)</i> |

3. Not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Chief Officer, Margao Municipal Council, Margao-Goa, being the First Appellant Authority (FAA).

4. The FAA by its order dated 02/08/2022, partly allowed the first appeal and directed the PIO to provide the information within 30 days.

5. Since the PIO failed to provide the information, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act.

6. Notices were issued to the parties, pursuant to which Adv. F. Dias, holding for Adv. Ashutosh V. Da Silva appeared on 21/11/2022. The PIO Smt. Seema Velip appeared and filed her reply on 15/12/2022. The FAA though duly served opted not to appear in the matter.

7. It is the case of the Appellant that, he is the owner and occupier of the house bearing house No. 3/75 situated within the jurisdiction of Margao Municipal Council and he filed the RTI application under Section 6(1) of the Act to know the details of the records maintained by Margao Municipal Council, Margao-Goa with regards to the said house. However, the PIO failed to provide the information and reply given by the PIO is vague and unsatisfactory.
8. On the other hand, the PIO submitted that vide letter No. MMC/TAX/RTI/700066180/2022-23/331 dated 14/06/2022 all the available information has been provided to the Appellant.

She further contended that, upon the receipt of the order of the FAA dated 02/08/2022, she once again verified the payment history of the house tax payment with regards to house No. 3/75. As per the house tax payment history the house tax of the house No. 3/75 was paid in cash at cash counter as such name of the person who made the payment is not traceable and to substantiate her claim she produced on record the copy of payment history for house No. 3/75 for the period from 01/04/2001 to 31/03/2023 alongwith office notings.

9. The submission of both the parties were heard and have perused the pleadings, reply and scrutinised the documents on record.
10. Admittedly, the Appellant has collected the information with regards to information at point No. a and c by paying the requisite fees. Therefore, the controversy remains only with regards to information at point No. b i.e. name and details of the person who has paid the house tax bearing house No. 3/75 for the last two years. The PIO categorically replied that "*As per the office record the name is not mentioned by whom the house tax is paid.*"

11. At this stage, it would be relevant to refer to section 2 (f) and 2 (j) of the Act, which reads as under:-

Section 2(f) - "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data **materials held** in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

Section 2(j) – "right to information" means the right to information accessible under this Act which is **held by or under the control** of any public authority and includes the right to_

(i) inspection of work, documents, records;

(ii) taking notes extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device".

A careful reading of this provision of law, suggests that PIO is required to supply such material in any form as held by the public authority and it does not require the PIO to deduce some conclusion from the material and furnish the conclusion so deduced to the Appellant.

The High Court of Patna in case of **Shekhar Chandra Verma v/s State Information Commission (L.P.A. 1270/2009)** has held that:-

"10. In our view, the RTI Act contemplates furnishing of information which is available on records, but it does not go so far as to require an authority to first carry out an enquiry and thereby 'create' information, which appears to be what the information seeker had required of the Appellant".

12. In the present case, the PIO categorically mentioned that the house tax payment with regards to house bearing No. 3/75 was paid in cash at cash counter and as such name of the person who made the payment is not available. A general practise is that on payment of house tax, the payment receipt was required to be issued in the name of the person whose name is recorded in the office records and not against the person who is making the payment. The record of the payer is not required to be maintained by cash counter authorities. However, in case where the house tax payment was made online in such case details can be obtained from NIC as to from whose account the payment was debited. On going through the payment history sheet for house No. 3/75 furnished by the PIO, it contains details of owner of the house, occupier of the house, Demand, amount of collection, receipt number and date of payment of house tax including the sanitation charges.

13. While considering the scope of information that could be dispensed under the Act, the Hon'ble Supreme Court in the case of **Central Board of Secondary Education & another v/s Aditya Bandopadhyaya (Civil Appeal No. 6456 of 2011)** at para 35 has observed:-

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and

existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant."

14. It is not the case that, the PIO was not willing to provide the information. The PIO has furnished all the available information to the Appellant. Therefore, the argument that the PIO failed and neglected to comply the order of the FAA is fallacious. For the reasons recorded aforesaid, in my view, there is no substance in the issue. The appeal is devoid of any merits and therefore, same is disposed off with following:-

ORDER

- The appeal stands dismissed.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner