

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. 283/2021/SCIC

Mr. Shaba Rama Dessai,
R/o. H.No. 713, Bhiunsa,
Cuncolim, Salcete-Goa 403703.

.....Appellant

V/S

1. The Public Information Officer,
Custodian of Evacuee Properties,
Altinho, Panaji-Goa.

2. Shri. Gopal A. Parsekar,
First Appellate Authority,
Additional Collector-I,
North, Panaji-Goa.

3. Shri. Kedar Naik,
Additional Collector-II (North Goa) &
Holding additional charge of
Custodian of Evacuee Properties,
Collectorate Building,
North Goa, Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 12/11/2021

Decided on: 08/11/2023

ORDER

1. The Appellant Shri. Shaba Rama Dessai r/o. H.No. 713, Bhiunsa, Cuncolim, Salcete-Goa vide his application dated 21/01/2021 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), the Custodian of Evacuee Properties, Additional Collector (II), North Goa, Panaji-Goa:-

"I, the undersigned, Shri. Shaba Rama Dessai, major in age, Indian National resident of above mentioned address, herewith request you to provide me the copy of the Order dated 14th May 1980, in respect of the case No. CEP/GDD/JUDL/60.

I require the above mentioned information for legal purpose and I am ready to pay necessary fees towards the same."

2. The Office of the Deputy Collector (Revenue) North Goa, Panaji-Goa transferred the said application to the Office of the Custodian of Evacuee Properties c/o. Additional Collector II North Goa, Panaji-Goa on 29/01/2021.
3. The office of the Additional Collectorate-II, North Goa, Panaji-Goa re-transferred said application to the Deputy Collector (Rev), North Goa, Panaji on 02/02/2021.
4. The office of Deputy Collector responded said RTI application on 04/02/2021 as under:-

"With reference to your RTI application dated 21/01/2021 and a letter No. AC-II/RTI/2021/13 dated 02/02/2021 from the Custodian of Evacuee Properties/ Additional Collector-II, it is to inform you that no old records has been transferred by the office of the Custodian of Evacuee Properties to this office. Hence this office is unable to provide the information as requested.

Therefore, your above RTI application stands disposed off in toto."

5. Aggrieved by the rejection of said application, the Appellant filed first appeal before the Deputy Collector (Revenue), Collectorate North Goa on 08/09/2021, being the First Appellate Authority (FAA).
6. Since the FAA failed and neglected to hear and dispose the first appeal within stipulated time, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act.

7. Notices were issued to the parties, pursuant to which, Adv. Tarun Rebello put his appearance in the matter on 13/12/2021, representative of the PIO, Ms. D. D'Costa appeared and placed on record the reply of the PIO on 22/06/2022. The FAA duly served opted not to appear in the matter.
8. In the course of hearing on 26/08/2022, Adv. T. Rebello appeared and submitted that the actual information is in the custody of the Additional Collector-II, who is holding additional charge of Custodian of Evacuee Properties. Therefore, the Appellant filed application to add Additional Collector-II as a party to the second appeal. For the sake of justice application of the Appellant was granted and issued notice to the Additional Collector-II at Panaji-Goa.
9. Pursuant to the notice, Respondent No. 3, Shri. Kedar Naik appeared on 30/09/2022 and filed his reply and submitted that he will try to locate the information from the office of Custodian of Evacuee Properties situated at Altinho, Panaji-Goa.
10. On the next date of hearing on 02/12/2022, Adv. T. Rebello appeared and submitted that with the help of the dealing hand staff of the Collectorate he searched the records of the office of Custodian of Evacuee Properties at Altinho, Panaji-Goa. However, he could not locate the records. The Appellant thereafter filed an application for reconstitution of the file.
11. Shri. Kedar Naik, Additional Collector-II, North Goa through his reply dated 29/08/2023 contended that, he cannot reconstitute the file as the photocopy submitted by the Appellant is the purported copy of an Order dated 14/05/1980 passed by the Court of by B.S. Subbanna, Custodian of Evacuee Property of Goa Daman and Diu in the case No. CEP/GDD/JUDL/60. He further contended that though he is not disputing the content of the said order, there

appears no signature of the drawer of the order and instead of actual signature the "Sd/-" are featuring.

He also submitted that as on date the office of the Custodian of Evacuee Property is virtually not operational and hence, it is not possible to reconstitute the file and furnish the information to the Appellant.

12. Considering the above submissions of the PIO, the Commission directed the PIO to file an Affidavit to that effect.

13. In the course of hearing on 04/10/2023, Shri. Rohit Kadam, Additional Collector-II, North Goa, Panaji-Goa holding additional charge as the Custodian of Evacuee Property appeared and filed his Affidavit. He categorically submitted on oath that he made diligent efforts to trace the records of Custodian of Evacuee Property, he also offered inspection of records to the Appellant, however, said information is not traceable in the records of public authority. Since the information is not available in the records, the Commission cannot issue any direction to the PIO to furnish non-existing information. In case at any time in future, the information in case No. CEP/GDD/JUDL/60 or order dated 14/05/1980 is traced, the PIO is duty bound to furnish the information to the Appellant. Besides, in case at any time, the content of the Affidavit are found false, the person swearing it would be liable for action for perjury.

14. In the light of above facts and circumstances, the appeal is disposed off.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner