

GOA STATE INFORMATION COMMISSION
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Appeal No. 31/2023/SCIC

Vigilia De Sa,
Moirá Civic and Consumer Forum,
866, Bambordem, Moira,
Bardez-Goa 403507.

-----Appellant

V/S

1. Dy. Town Planner,
Public Information Officer,
Town and Country Planning Department,
Mapusa-Goa 403507.

2. Senior Town Planner,
First Appellate Authority,
Town and Country Planning Department,
Mapusa-Goa 403507.

-----Respondents

Filed on: 16/01/2023

Appeal No. 101/2023/SCIC

Vigilia De Sa,
Atafondem, Moira,
Bardez-Goa 403507.

-----Appellant

V/S

1. Public Information Officer,
Town and Country Planning Department,
Mapusa-Goa 403507.

2. Senior Town Planner,
First Appellate Authority,
Town and Country Planning Department,
Mapusa-Goa 403507.

-----Respondents

Filed on: 20/03/2023
Both Decided on: 25/08/2023

Shri. Vishwas Satarkar

State Chief Information Commissioner

FACTS IN BRIEF

1. Both the above appeal proceedings have been filed by the Appellant under Section 19(3) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') are results of similar kind of RTI applications and with different dates, between the same parties, with identical factual matrix and therefore are disposed off by this common order.
2. For convenience sake, I refer to the facts of the leading case viz 31/2023/SCIC, Vigilia De Sa v/s Dy. Town Planner and Another.
3. The facts in brief which arises are that, the Appellant, Vigilia De Sa, vide her two applications dated 13/10/2022 filed on the letterhead of Moira and Consumer Forum, 866, Bambordem, Moira, Bardez-Goa, under Section 6(1) of the Act, sought certain information from the Public Information Officer, (PIO), Town Planner, Town and Country Planning Department, Mapusa-Goa.
4. Since the applications submitted were not responded by the PIO within the stipulated time, deeming the same as refusal, the Appellant filed first appeal before the Senior Town Planner on 29/11/2022, being the First Appellate Authority (FAA).
5. According to the Appellant, during the pendency of the first appeal before the FAA, the PIO appeared with so called replies to the RTI applications on 06/01/2023, however, the Appellant refused to accept copies of the said replies as they were not addressed to the Appellant. Due to the same, the FAA had directed the PIO to dispatch the letters through speed post/ registered post to the Appellant, however, the Appellant claims that she did not receive any reply till date.
6. According to the Appellant, since the FAA also failed and neglected to hear and decide the first appeal within stipulated time, the

Appellant preferred this second appeal before the Commission under section 19(3) of the Act, with the prayer to direct the PIO to furnish the information and to impose penalty on the Respondents for violating the provisions of the Act.

7. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 23/02/2023, the PIO appeared alongwith Adv. A.P. Mandrekar and placed on record the reply of the PIO on 20/03/2023, the FAA duly served opted not to appear in the matter.
8. Perused the pleadings, reply, rejoinder, written submission and considered the judgments relied upon by the rival parties.
9. It is the case of the Appellant that, she is a citizen of India and sought information with regards to various technical clearances and NOC issued by the public authority for two projects located in village Moira, Bardez-Goa. However, the PIO deliberately failed to respond to the RTI applications within stipulated time.

Further, according to the Appellant, the FAA also failed to hear and dispose the first appeal within prescribed time and for the above reason they have violated the provisions of the Act and therefore liable for penal action as per the Act.

10. As against this, the PIO through his reply dated 20/03/2023 contended that, he has furnished the replies to both the applications of the Appellant on 25/11/2022.

According to the PIO, under Section 3 of the Act, only citizens have a right to information. Since the information sought by the Appellant on the letter head and on behalf of Association/ NGO, the request of the Appellant cannot be considered as the same is not coming within the purview of the RTI Act. He further contended that, there is no provision under the Act to provide the information

to Corporations, Association or Companies etc being they are the legal entities and not citizens.

11. Therefore, a question that arises for the consideration of the Commission whether the RTI application is liable to be rejected on the ground that it was submitted on official letterhead of the Association.
12. The whole purpose of the Act is to secure access of information under the control of public authorities in order to promote transparency and accountability in the working of every public authority.
13. Under Section 6 of the Act, a person who desires to obtain information under this Act, shall make a request in writing, accompanying such fee as may be prescribed. In making such a request the applicant is not required to give any reason for obtaining the information. There is also a provision to make request orally but it has to be reduced in writing and for this purpose an obligation has been imposed on Public Information Officer to render all reasonable assistance to reduce the oral request in writing.
14. Having gone through the application filed under Section 6(1) of the Act dated 13/10/2022, it is revealed that the application is submitted in the name of the Appellant and it has been signed by her in personal capacity. This establishes that the information has been asked by the Appellant in her individual capacity, therefore, though she used the letterhead of the Moira Civic and Consumer Forum, Moira, Bardez-Goa for seeking the information under Section 6(1) of the Act and paid the fees out of her personal funds such an application cannot be rejected.
15. It is true and correct that, the right to information conceded only to the citizens. However, if an application is made by an office

bearer of the Association / NGO, indicating her name, in such a case it would be presumed that a citizen has sought information at the address of the Association/ NGO.

16. The Full Bench of Central Information Commission in the case **Ms. J.D. Sahay v/s Ministry of Finance Department of Revenue, New Delhi (CIC/AT/A/2008/00027 & 33)** has held as under:-

"15. The respondent Public Authority has submitted that in the instant case, information has not been asked for by a citizen of India. It has been asked by the appellant in her official capacity as Director General of Income Tax (Inv). A perusal of the RTI request shows that the application has been submitted in Form 'A', the description whereof is as follows: Application Form for obtaining Information under [Section 6\(1\)](#) of the RTI Act, 2005

16. The application was submitted in the name of the applicant and it has been signed by her in her personal capacity. Of course, she has referred to letter dated 17.8.2008 which enumerates the information asked for by her. This establishes that the information has been asked by the appellant in her individual capacity. Even assuming that a Government servant uses the letter head of the office for seeking information under [Section 6\(1\)](#) of the RTI Act and pays fees from out of his personal funds, an application submitted under such circumstances cannot be rejected on the ground that the application has been filed not by a citizen but by a Government servant in official capacity. The payment of

fee and indication that it is an application under Section 6(1) of the RTI Act is good enough to establish that it is an application submitted by a citizen under the Act and the CPIO is obliged to consider the same."

17. In the course of arguments, the Appellant referred to, the Circular issued by the Director, Department of Information and Publicity, Government of Goa dated 09/07/2008 having reference to the Office Memorandum No. 1/3/2008-IR dated 25/04/2008 issued by Government of India, Ministry of Personnel and DOPT, Delhi in which, the above aspect has been clarified by the DOPT in para No. 8 of the said Memorandum which reads as under:-

"8. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc."

18. The Appellant also fairly pointed out the decision of this Commission in the case **Vigilia De Sa v/s Public Information Officer (Complaint No. 55/2008)** in support of her submissions. The relevant paragraph of the said order is reproduced herein for better clarification:-

"3. I have gone through records of the case and taken into consideration the submissions of both the parties. The information which was sought by the Complainant

is in respect of the copy of the Observer's Report on Gram Sabha held in Moira Village on 26.10.2008. This request was written on the letterhead of Moira Civic and Consumer Forum and signed by the Complainant for Moira Civic and Consumer Forum. No doubt that a company, a firm or an association cannot seek information under the RTI Act since, as per section 3 of the RTI Act, only citizens have a right to information. In the present case though the Complainant sought information on the letterhead of and signed for Moira Civic and Consumer Forum, for all purposes she sought the information as an individual citizen and not as an executive member of the Forum. Had Moira Civic and Consumer Forum itself, sought information then the matter would have been different and the Opponent was justified in denying the information, stating that Moira Civic and Consumer Forum is not a citizen consequently not entitled for the information under the RTI Act. Though the Complainant used the letterhead of Moira Civic and Consumer Forum and signed the letter being member of the said Forum, the information sought under RTI Act, was for all purposes in her individual capacity as a citizen. Moreover the Opponent addressed the letter dated 13/11/2008 not to Moira Civic and Consumer Forum but to the Complainant. Using the letterhead of the Moira Civic and Consumer Forum, it can be considered as address of the Complainant for contact for the purpose of dealing with information under the RTI Act."

19. In the present case, though the said information has been denied to the Appellant by the PIO on technical ground, the FAA

has overruled said decision and directed the PIO to furnish the information. The operative part of the order of the FAA dated 24/03/2023, reads as under:-

"During the hearing, Appellant stated that she has sought information pertaining to the construction of building in property bearing Sy. No. 16/0 and 48/4 of the Village Moira, Taluka. Information was not issued to her till date.

After hearing both parties, the PIO is hereby directed to furnish the information as sought by the Appellant within 3 weeks which was agreed by the applicant. The appeal stands disposed off, with the above directions to the PIO."

20. 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."

21. RTI Act is a citizen friendly legislation and that the officials charged with the responsibility to implement the RTI regime must

do so in a liberal manner and not by adopting a hyper technical approach which counter to the letter and spirit of the Act.

22. Considering the facts and circumstances discussed hereinabove, I find that the purported information has been denied on wrong footings and not justifiable by law. In the backdrop of the above fact, I find merit in the appeal and consequently the present appeal is allowed with the following:-

ORDER

- The appeal is allowed.
- The PIO, Shri. Zaidev R. Aldonkar, Deputy Town Planner, Town and Country Planning Department, Mapusa-Goa is hereby directed to provide the information to the Appellant as per her two RTI application dated 13/10/2022 within the period of **FIFTEEN DAYS** from the receipt of the order.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner,