

**GOA STATE INFORMATION COMMISSION**  
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**Appeal No. 313/2022/SCIC**

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

.....Appellant

V/S

1. The Public Information Officer,  
Sub-Divisional Police Officer,  
Shri. Jeevba Dalvi,  
Mapusa-Goa.

2. The First Appellate Authority,  
Superintendent of Police (North),  
North District, Headquarters,  
Alto, Porvorim-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 16/12/2022**

**Decided on: 19/05/2023**

**FACTS IN BRIEF**

1. The Appellant, Shri. Jawaharlal T. Shetye r/o. H.No. 35/A, Ward No. 11, Khorlim, Mapusa-Goa vide application dated 04/07/2022 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), Office of Sub-Divisional Police Officer at Mapusa-Goa.
2. The said application was responded by the PIO on 30/07/2022 in the following manner:-

Sr. No.	Questions	Reply
I	Enclosed herewith photocopy of the complaint dated 11 <sup>th</sup> August 2021 inwarded in your office on 11/08/2021 lodged against one Mr. Arun Gavandalkar r/o. H.No. 365/5, Shetye Vaddo, Mapusa-Goa by the complainant Mr. Richard Maxie Rocha complaining regarding illegally and criminally trespassing into the private property bearing P.T. Sheet No. 85, Chalta No. 79 admeasuring 57 sq.mts. of City Mapusa belonging to Late Manuel Francisco De Souza to be booked	

	under the appropriate section of IPC and CrPc for taking law in his hands for your ready perusal and kindly furnish to me the following information as under:-	
1	Furnish certified copy of the action taken report if any from your side on the above cited complaint dated 11/08/2021 which is self explanatory within prescribed time frame.	Copy of Enquiry Report into the complaint dtd. 11/08/2021 filed by Mr. Richard Maxie Rosario is enclosed.
2	Furnish the present upto date progress report as well as the present upto date status report with regards to the above cited police complaint dated 11/08/2021 which is self explanatory.	As per the reply given at Point No. 1 above.
3	Furnish the names and designations of your Police personnels entrusted the duties of conducting preliminary investigations with regards to the above cited police complaint dated 11/08/2021 which is self explanatory and presently with whom it is lying pending for further course of action.	LPSI Vibha Volvoikar
4	Furnish certified copies of all the call letters/ intimation letters issued to Shri. Arun Gavandalkar calling him to the Mapusa Police Station by the concerned Investigation Officer for conducting the preliminary enquiry into the police complaint dated 11/08/2021.	Copy of call letter dt. 26/07/2022 issued to Shri. Arun Gavandalkar is enclosed.

3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Superintendent of Police, North District at Porvorim, Goa on 16/08/2022 being the First Appellate Authority (FAA).
4. The FAA by its order upheld the reply of the PIO and dismissed the first appeal on 11/10/2022.
5. Aggrieved and dissatisfied with the order of the FAA dated 11/10/2022, the Appellant landed before the Commission by this

second appeal under Section 19(3) of the Act, with the prayer that the PIO be directed to furnish the information and to impose penalty on the PIO.

6. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 19/01/2023, the representative of the PIO, Shri. Gaurav Naik appeared on 19/01/2023 and placed on record the reply of the PIO, the FAA, duly served opted not to appear in the matter.
7. It is the case of the Appellant that, vide his RTI application dated 04/07/2022, he sought information from the PIO with regards to Action taken report on the complaint lodged by Mr. Richard Maxie Rosario against Mr. Arun Gavandalkar r/o. H.No. 365/5, Shetye Vaddo, Mapusa Goa for illegal trespassing in to private property bearing P.T. Sheet No. 85, Chalta No. 79, admeasuring 57 sq.mts situated at Mapusa-Goa. According to the Appellant, the PIO failed and neglected to furnish the correct information and he is not satisfied with the information provided by the PIO.
8. As against this, the PIO through his reply dated 18/01/2023 submitted that, vide letter No. SDPO/MAP/RTI-281/445/2022 dated 30/07/2022 he has furnished all the available information to the Appellant within stipulated time as per the information available on records of Mapusa Police Station, at Mapusa, Bardez-Goa.
9. Perused the pleadings, reply and scrutinised the documents on records.
10. On perusal of records it reveals that, upon the receipt of the complaint, LPSI of Mapusa Police Station Ms. Vibha Volvoikar carried out the inquiry and found that matter is civil in nature and no police action was warranted and accordingly she submitted her enquiry report to the Police Inspector, Mapusa Police Station, Mapusa, Bardez- Goa on 28/07/2022. Admittedly copy of the said

report was received by the Appellant, however, the Appellant alleged that information furnished by the PIO is incorrect and that he is not satisfied with the said report.

11. The role of the PIO is information provider and he cannot be treated as a creator of the information. He can only facilitate in providing information which is available in his records in material form and is retrievable from the official records. The PIO cannot either confirm or deny perception of the Appellant. The PIO cannot be held responsible for the merits or accuracy of the information provided to the information seeker or furnish the reasoning of the decision taken by the competent authority.

12. 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. Before undertaking further discussion as to the legality or otherwise of the order passed by the respondents, the distinction between ‘information’ on the one hand and the ‘reason’ for existence or non-existence of a particular state of affairs on the other hand, needs to be noticed. 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.”*

13. 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."*

14. In the present case, the public authority after receiving the Enquiry report dated 28/07/2022 provided the copy of the same to the Appellant. The PIO also furnished the copy of call letter dated 26/07/2022 issued to Shri. Arun Gavandalkar. The PIO further cannot justify or provide the reason for decision taken by Investigation Officer, as it is outside the purview of the PIO under the Act. This can be matter of agitation before the concerned higher authorities and not under this forum.

15. Under Section 7(1) of the Act, the PIO is required to dispose the RTI application within 30 days. In the present case, the PIO has responded to the application within stipulated time and furnished the available information to the Appellant. Hence I am not inclined to impose penalty on the PIO, as prayed by the Appellant.

16. Considering the facts and circumstances hereinabove, I find no substance in the appeal and therefore same is disposed off with the following:-

## **ORDER**

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

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner