**GOA STATE INFORMATION COMMISSION**

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

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**Appeal No. 327/2022/SCIC**

Dr. Gurudas Chandrakant Naik,
Flat No. 404, 4th Floor, Chandrakant Residency,
Opp. Electricity Department,
Pontemol, Curchorem-Goa 403706. .....Appellant

V/S

1. The Public Information Officer,
Directorate of Mines and Geology,
Udyog Bhavan, Government of Goa,
Panaji-Goa 403001.

2. The First Appellate Authority,
Directorate of Mines and Geology,
Udyog Bhavan, Government of Goa,
Panaji-Goa 403001. .....Respondents

**Shri. Vishwas R. Satarkar** State Chief Information Commissioner

**Filed on: 29/12/2022**
**Decided on: 16/06/2023**

## FACTS IN BRIEF

1. The Appellant, Dr. Gurudas Chandrakant Naik r/o. Flat No. 404, 4th Floor, Chandrakant Residency, Opp. Electricity Department, Pontemol, Curchorem-Goa vide his application dated 20/09/2022 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), Directorate of Mines and Geology, Udyog Bhavan, Panaji-Goa.

2. The said application was responded by the PIO on 19/10/2022, in the following manner:-

> *"With reference to your RTI application dated 20/09/2022, it is to inform you that file pertaining to the sought documents is under submission to Ld. Advocate General for legal opinion. The information*

*sought by you will be made available upon receipt of the said file."*

3. Aggrieved and not satisfied with the reply of the PIO, the Appellant filed first appeal before the Deputy Director of Mines and Geology at Panaji-Goa on 26/10/2022, being the First Appellate Authority (FAA).

4. The FAA vide its order dated 16/12/2022 disposed off the first appeal with the direction to the PIO to provide information to the Appellant once the records are received by the public authority.

5. Being aggrieved and dissatisfied with the order of the FAA, 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.

6. Notices were issued to the parties, pursuant to which the representative of the Appellant Shri. Shubham G. Naik appeared on 07/02/2023. The representative of the FAA, Shri. Baban Gaonkar appeared on 07/02/2023 and placed on record the reply of the FAA. Incumbent PIO, Ms. Nelita O. Fernandes e D'Silva appeared on 09/03/2023 and submitted that she had already dispatched the information to the Appellant by Registered Post on 27/01/2023 and has produced on record the copy of letter dated 27/01/2023.

7. In the course of hearing on 09/03/2023, the representative of the Appellant Shri. Shubham Naik appeared and admitted that he has received information from the PIO. However, he alleged that there is delay in furnishing the information by the PIO. The FAA, Shri. Abhir C. Hede appeared and submitted that at the relevant time file was not in the custody of the public authority but the same was under submission to the office of Ld. Advocate General and that he has taken substantial efforts to expedite the matter, he

also produced on record the copy of the roznama of first appeal proceeding, to support his claim.

8. I have perused the roznama of the first appeal proceeding, particularly the roznama of FAA dated 12/12/2022 which reads as under:-

> *"Case called out, Appellant present, PIO present, deemed PIO informed that the file was with the office of Ld. A.G. and the same has now moved to the office of Hon'ble C.M. It is submitted that the information will be provided and inspection will be allowed once the file is received. Moreover, the PIO is directed to expedite the matter within next 1 week. Matter posted on 16/12/2022 at 11:00 am."*

9. The FAA vide its order disposed off the first appeal on 16/12/2022 in the following manner:-

> *"Case called out. Appellant present. PIO submits that the file has not yet been received and the information as available in records shall be provided once the records are received by this office. The matter accordingly stands disposed with directions to the PIO to provide information to the Appellant as per records available in the file. The Appellant has refused the opportunity to inspect the records. Hence, accordingly this appeal stands disposed."*

10. Eventually by letter dated 27/01/2023, the PIO categorically informed the Appellant that, the relevant file pertaining to the documents sought by him, has received back from the office of Ld. Advocate General and consequently supplied the information to the Appellant. The PIO also offered the inspection of the file to the Appellant.

11. In the instant case, the application under Section 6(1) of the Act was filed on 20/09/2022, same was responded by the PIO on 19/10/2022 i.e within reasonable time. If the information is not in custody of the PIO at the relevant time, there is nothing wrong on the part of the PIO to seek time in furnishing the information. This is certainly not the case where the PIO is unwilling to furnish the information or wilful default on the part of the PIO in furnishing the information. On the contrary, the PIO upon the receipt of the file from superior authorities has promptly complied the order of the FAA and moreover he offered an opportunity for inspection of the records. Therefore, I do not find anything on record to show that the PIO has acted contrary to the law.

12. It is a matter of fact that, the Appellant received the information from the PIO. However, he is pressing on for imposition of penalty on the PIO for causing delay in furnishing the information, however, neither in the first appeal nor in this second appeal the Appellant has prayed for imposition of penalty on the PIO. The Commission therefore is not inclined to impose penalty in the absence of specific prayer in the appeal proceeding.

13. Since the available information has been furnished free of cost to the Appellant, nothing survives. Accordingly the matter is disposed off.

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

Sd/-

**(Vishwas R. Satarkar)**
State Chief Information Commissioner