

**GOA STATE INFORMATION COMMISSION**  
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**Appeal No. 39/2022/SCIC**

Joseph Paul Savio Coutinho,  
Ratwado, P.O. Navelim,  
Margao, Salcete-Goa 403707.

.....Appellant

V/S

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

2. The First Appellate Authority,  
The Chief Officer,  
Margao Municipal Council,  
Margao-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 08/02/2022**

**Decided on: 11/04/2023**

**FACTS IN BRIEF**

1. The Appellant, Shri. Joseph Paul Savio Coutinho r/o. Ratwado, Navelim, Margao, Salcete-Goa vide his application dated 16/07/2021 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), Margao Municipal Council, Margao-Goa.
2. The said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Appellant preferred first appeal before the Chief Officer, Margao Municipal Council, Margao Goa on 19/08/2021 being the First Appellate Authority (FAA).
3. The FAA vide its order dated 16/11/2021 allowed the first appeal and directed the Head Clerk / Store Keeper to furnish the information to the Appellant within 10 days.
4. Since neither the PIO nor the Head Clerk complied the order of the FAA dated 16/11/2021, the Appellant landed before the

Commission with this second appeal under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information and to take penal action against the PIO/ Head Clerk under Section 20(1) and 20(2) of the Act.

5. Notices were issued to the parties, pursuant to which the Appellant appeared personally on 23/03/2022, then PIO Prashant Narvekar appeared and filed his reply on 23/03/2022. The incumbent PIO, Shri. Shrikant Lawande appeared and filed his reply dated 23/03/2022. The FAA, Agnelo Fernandes appeared and filed his reply on 23/03/2022.
6. In the course of hearing, the Appellant filed one application dated 12/05/2022 stating that, the Head Clerk / deemed PIO Smt. Shobha Satardekar may be added as Respondent No. 3 in the present appeal. In order to serve the interest of justice, application of the Appellant was allowed and notice was issued to Smt. Shobha Satardekar.
7. The Respondent No. 3, Smt. Shobha alias Smita Satardekar appeared on 09/03/2022 and furnished bunch of documents to the Appellant. The Appellant sought time to scrutinise the documents furnished by the Respondent No. 3 and matter was posted for clarification/ order on 26/09/2022.
8. During the course of hearing on 26/09/2022, the Appellant appeared and filed rejoinder dated 26/09/2022 and submitted that, the information provided by the deemed PIO, Smt. Shobha @ Smita Satardekar is misleading, false and fabricated. Since the appellant disputed the information furnished to him, the matter was posted for arguments on 30/11/2022.
9. The Appellant filed his written arguments on 27/10/2022, the Respondent No. 3 filed two Memorandum dated 19/11/2022 and also the copy of resolution passed by the Margao Municipal Council

dated 30/11/2011 and also placed on record additional reply dated 22/12/2022 alongwith the information.

10. I have perused the pleadings, replies, scrutinised the documents on record and considered the written submissions.

11. A perusal of the order of the FAA dated 16/11/2021, the FAA directed the Head Clerk / Store Keeper to furnish the information to the Appellant within 10 days.

However nowhere brought to my notice that said Head Clerk / Store Keeper was the party before the first appeal proceeding. It is well established that a necessary party is one without whom no order can be made effectively. A party whose interest is directly affected is a necessary party.

12. Upon adding as a party in this second appeal, the respondent No. 3, Smt. Shobha alias Smita Satardekar appeared on 09/09/2022 and furnished bunch of documents, additionally she produced on record memorandum dated 19/11/2022 and also the copy of resolution passed by the Margao Municipal Council. Since, the Appellant alleged that he did not satisfy with the same, the Respondent No. 3 placed on record the additional information on 22/12/2022.

13. On perusal of the information provided by the Respondent No. 3, it reveals that she provided the details of the mobile handset purchased by Margao Municipal Council during 01/11/2005 to 31/10/2005, from 01/11/2010 to 31/10/2015 and from 01/11/2015 to 31/10/2020 alongwith their make, cost and details of allotment of mobile handset to their staff etc. The Respondent No. 3 also categorically stated that all the available information has been provided to the Appellant. As against this the Appellant alleged that the information provided by the Respondent No. 3 is incorrect and misleading.

14. I am unable to accept the contention of the Appellant, as the APIO/ PIO under the Act is only a custodian of records, which is the information he is expected to furnish the same in the form and the manner in which it exists. The Act does not cast an obligation upon the public authority to collect or create the information and then furnish it to the Appellant. The APIO/ PIO also cannot either confirm or deny perception of the Appellant.

15. 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. .... 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."*

16. 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:-

*"48..... 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."*

*..... 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."*

17. In the instant case, upon the receipt of the order of the FAA, the Respondent No. 3 collected the information from subordinate and superiors authorities and furnished to the Appellant, thus complied the order of the FAA, therefore, I am not inclined to impose penalty as prayed by the Appellant.

18. The Appellant also prayed that, the Respondents be directed to pay the compensation of Rs. 25,000/- (Rupees Twenty Five Thousand only) for delay in providing the information. However, he did not make out any specific plea for amount of loss or shown quantum of actual damage caused to him. Such a relief cannot be granted to the Appellant being irrational and completely unfounded. To substantiate it, a reference can be conveniently made to the recent judgement of the High Court of Bombay, Goa Bench in the case **Santana Nazareth v/s State of Goa & Ors. (2022 (6) ALL MR 102)**, paragraph 4 of the said judgement being relevant is quoted below:-

*"4..... compensation as in Section 19(8)(b) is intended to be provided to the information seeker by the public authority on proof of loss or sufferance of detriment by the former because of negligence, carelessness or recalcitrance of the later. Merely because the petitioner was found to have suffered hardship did not entitle her to payment of compensation unless a case of loss or*

*sufferance of detriment was specifically set up in the appeal.”*

Therefore I am also not inclined to grant the relief at prayer No. (b) of the appeal.

19. In the light of above facts and circumstances and considering that purported information has been furnished by the Respondent No. 3 to the Appellant free of cost, nothing has been survived in the matter, accordingly the appeal is disposed off.

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

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner