

**GOA STATE INFORMATION COMMISSION**  
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**Appeal No. 81/2022/SCIC**

Mr. Devanand C. Mandrekar,  
H.No. 369/1, Corjuem,  
Podwal, Aldona,  
Bardez-Goa 403508.

.....Appellant

V/S

1. The First Appellate Authority,  
Goa Gazetteer Department,  
Junta House, 3<sup>rd</sup> Lift, 4<sup>th</sup> Floor,  
Panaji-Goa.

2. The Public Information Officer,  
Goa Gazetteer Department,  
Junta House, 3<sup>rd</sup> Lift, 4<sup>th</sup> Floor,  
Panaji-Goa.

3. The Public Information Officer,  
Goa Public Service Commission,  
EDC House, Block, 'C', 2st Floor,  
Dada Vaidhya Road, Panaji-Goa 403001.

4. Rajendra B. L. Carvalho,  
Upper Division Clerk,  
Goa Gazetteer Department,  
Junta House, 3<sup>rd</sup> Lift, 4<sup>th</sup> Floor,  
Panaji-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 11/03/2022**

**Decided on: 20/02/2023**

**FACTS IN BRIEF**

1. The Appellant, Mr. Devanand C. Mandrekar r/o. H.No. 369/1, Corjuem, Podwal, Aldona, Bardez-Goa vide his application dated 06/12/2021 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), Goa Public Service Commission, EDC House, Panaji-Goa:-

*"1) The current status of the GPSC Order No. 1/36/2016-GGEB-1066 is pending before which department?*

*2) Whether Probation period on said GPSC order No. 1/36/2016-GGEB-1066 stands completed.*

*3) To provide information on what observation have been made during the probation period of said GPSC order No. 1/36/2016-GGEB-1066 right from the year of joining 2016?"*

2. The office of Goa Public Service Commission transferred the said application to the PIO, Goa Gazetteer Department, Junta House, Panaji-Goa on 30/12/2021 under Section 6(3)(ii) of the Act.
3. The PIO of the Goa Gazetteer Department, Junta House, Panaji-Goa responded to the Appellant (who himself is the PIO in this appeal) on 04/01/2021 in the following manner:-

*"This office is in receipt of the letter No. COM/I/RTI(37)/2021/1332 dated 09/12/2021 on 10/12/2021 from the Public Information officer of Goa Public Service Commission.*

*However, since the PIO is also the same person requesting the information therefore the application is forwarded to Senior Authority of Goa Gazetteer Department for providing necessary information."*

4. In this peculiar case, the Appellant himself being a designated PIO of Goa Gazetteer Department, Panaji Goa, forwarded the said application to senior authority of Goa Gazetteer Department on the same day viz. 04/01/2021 by email.
5. The Senior Authority of Goa Gazetteer Department, Panaji transferred back the said application to the PIO of Goa Gazetteer

Department with instructions to forward the same to the UDC of the Department.

6. It is averred by the Appellant that, since he did not receive the purported information within stipulated time he filed first appeal on 09/02/2022 before the Director, Directorate of Archives and Archaeology, Panaji Goa being the First Appellate Authority (FAA).
7. According to the Appellant, since the FAA has failed to hear and dispose the matter within stipulated time, he landed before the Commission with this second appeal under Section 19(3) of the Act, with the prayer to direct the concerned officer of Goa Gazetteer Department to provide the information.
8. Notices were issued to the parties, pursuant to which Adv. A.P. Mandrekar puts his appearance on behalf of the Appellant on 20/05/2022. The FAA, Ms. B. Madeira appeared and filed her reply on 15/06/2022. Adv. Ashish Kuncolienkar appeared on behalf of Respondent No. 3, however opted not to file any reply in the matter.
9. I have perused the pleadings, reply, perused the order passed by the FAA and scrutinised the documents on record.
10. It is the case of the Appellant that, he is working as a Research Officer in the office of Goa Gazetteer Department, Government of Goa, Panaji-Goa on probation since 01/09/2016 and has been recruited through the Goa Public Service Commission. Therefore, the Appellant has written a letter dated 04/10/2021 to the Executive Editor of Goa Gazetteer Department bringing to their attention about completion of his probation period and thereafter a reminder letter dated 08/11/2021 thereby requesting executive editor to lift his probation period. He further intimated the same to the Secretary, Goa Gazetteer Department vide letter dated 22/11/2021 and brought to the notice about completion of

probation period. As no cognizance was taken by the authorities he sought information from the PIO of the Goa Public Service Commission, to know the current status of GPSC order No. 1/36/2016-GGEB-1066. The GPSC eventually transfer said RTI application to the office of Goa Gazetteer Department, Panaji. However, according to him he did not receive the information till date.

11. The FAA through her reply dated 20/05/2022 contended that, Appellant himself is the designated PIO of the Goa Gazetteer Department and being so he is having access to all the information. Being senior most officials in the said department, he is aware that the information regarding service matters of the said department are available with the Administrative unit. However, inspite of being the PIO he did not attempt to obtain the information from either from the UDC / clerk who are also the APIO of the department.

Further according to her, the RTI application which was transferred by the GPSC was pending with the PIO / Appellant since long, it was his responsibility to put up the file to the Administrative unit who are the custodian of information pertaining to service matters.

Further, according to the FAA, after receiving the first appeal, on 09/03/2022, the notice was issued to the Appellant, however the Appellant chose to remain absent on 07/03/2022 for the hearing and conveyed to the FAA that he was sick, thereafter notice of second hearing was served upon the PIO however, the FAA received an email from the Appellant that *"I am to inform you that applicant is doubtful of getting justice before the First Appellate Authority of Goa Gazetteer Department Government of Goa as such appeal has already been preferred before the Goa State Commission."*

The FAA contended that Appellant filed first appeal on 09/02/2022 and same has been disposed off by her on 16/03/2022 and to substantiate her claim she produced on record the order dated 16/03/2022.

12. On going through the material on record, it appears that there is lack of trust and poor coordination amongst the various authorities in the office of Goa Gazetteer Department. In fact the matter is purely a grievance issue and can be addressed through the grievance redressal mechanism by taking up the matter before concerned authorities of State Government or approach an appropriate court of law for seeking legal remedy. Be that as it may.
13. On meticulous reading of the order passed by the FAA dated 16/03/2022, it appears that the order of the FAA is just and equitable in the facts of the case. I do not find any palpable error in reasoning or jurisdictional error. In the interest of justice the FAA directed the Upper Division Clerk (UDC) of Administrative unit to provide the inspection of the file pertaining to the service matter of the Appellant, Shri. Devanand Mandrekar.
14. However the grievance of the Appellant that, the UDC failed and neglected to comply with the order of the FAA dated 16/03/2022. In order to sort out the issue, the Commission also allowed the application of the Appellant to implead the UDC of Goa Gazetteer Department. However, the reason best known to him he did not appear before the Commission.
15. In this case, the FAA is a senior officer of the public authority and recognised the Upper Division Clerk (UDC) as deemed PIO in the absence of the PIO and believing that he is the custodian of the information sought, issued direction to him to allow the

inspection of file pertaining to the Appellant. However, in this case, it indicates that, the concerned UDC disobeyed the order of the FAA dated 16/03/2022, which is against the spirit of law.

16. The whole purpose of the Act is to secure the information under the control of public authorities in order to promote transparency and accountability in the working of the every public authority.

Section 3 of the Act is an omnibus provision, in a sense it mandates that all citizens shall have right to information subject to the other provisions of the Act. Therefore unless the information is specifically exempted, it is required to be provided in the form which it is available.

17. The High Court of Delhi in the case **Secretary General Supreme Court of India v/s Subhash Chandra Agarwal (AIR 2010 Delhi 159)** it is observed as under:-

*"60..... The source of right to information does not emanate from the Right to Information Act. It is a right that emerges from the constitutional guarantees under Article 19(1)(a) as held by the Supreme Court in a catena of decisions. The Right to Information Act is not repository of the right to information. Its repository is the constitutional rights guaranteed under Article 19((1)(a). The Act is merely an instrument that lays down statutory procedure in the exercise of this right."*

18. The RTI Act is a beneficial piece of legislation and it should receive a liberal interpretation. Hon'ble Supreme Court in the case of **Union of India v/s Prabhakaran Vijaya Kumar & Ors. (2008 ACJ 1895)** it is held that:-

*"12. It is well settled that if the words used in beneficial or welfare statute are capable of two constructions the one which is more consonance with the object of the Act and for the benefit of the person to whom the Act was made should be preferred. In other words, beneficial or welfare statute should be given a liberal and not literal or strict interpretation."*

19. Considering the above and without going to the other aspect of the appeal and with a view to achieve the basic aim of the Act, to disseminate the information, under Section 19(8)(a) of the Act, the Commission hereby direct the Respondent No. 4 Shri. Rajendra Baltazar Lino Carvalho, the Upper Division Clerk and deemed PIO of Goa Gazetteer Department, Panaji-Goa to furnish the information in the form of inspection.

20. In the above circumstances, I am of the view that the Appellant deserves relief. The appeal is therefore allowed with the following direction :-

### **ORDER**

- Shri. Rajendra Baltazar Lino Carvalho, the UDC and the deemed PIO of Goa Gazetteer Department, Panaji Goa is hereby directed to furnish information in the form of inspection of records and thereafter by furnishing the copies of the documents as are sought by the Appellant as per his RTI application dated 06/12/2021 within **FIFTEEN DAYS** from the receipt of the order.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner