

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Complaint No. 19/2022/SCIC

The Public Information Officer,
The Village Panchayat of Tivim,
Tivim, Bardez-Goa 403502.

.....Complainant

V/S

1. Shri. Arjun Devu Harmalkar,
R/o. H.No. 77, Piquen, Porxem,
Tivim, Bardez-Goa 403502.

2. The First Appellate Authority/ B.D.O.-I,
Bardez, Mapusa-Goa.

.....Opponents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 09/05/2022

Decided on: 23/02/2023

FACTS IN BRIEF

1. The Complainant Shri. Dhiraj J. Govekar, the Secretary and the Public Information Officer (PIO), Village Panchayat Tivim, Tivim, Bardez-Goa has filed application for Review of order passed by the Commission in Appeal No. 207/2021/SCIC dated 16/03/2022.
2. It is the case of the Complainant that he is aggrieved and dissatisfied with the order of the Commission for issuing show cause on him as at the relevant time he was not designated PIO of Village Panchayat Tivim, Tivim, Bardez-Goa.
3. Notices were issued to the parties, pursuant to which the representative of the Complainant Adv. Kanchan Ekoskar appeared. Opponent No. 1, Shri. Arjun Harmalkar appeared on 02/08/2022 and filed his reply. Opponent No. 2 duly served opted not appear in the matter.
4. Perused the content of Review application/ Complaint, reply of the Opponent No. 1, scrutinised the documents and considered the written as well as oral submissions of the rival parties.

5. Adv. Ajit Kantak, Senior Counsel appearing on behalf of Opponent No.1 argued that the present Review petition / Complaint is not maintainable, as RTI Act is a special legislation and unless there is a specific provision of law, it is not open for any party to seek a review and to substantiate his case he relied upon the judgement of Hon'ble Supreme Court in the case **Patel Narshi Thakershi & Ors. v/s Pradymansinghji Arjunsinghji (CDJ 1970 SC 455)**.
6. Adv. Kanchan Ekoskar submitted that, the Commission has made a error in passing the order as the information sought is of 44 years old and the said information was moved in multiple hands and prayed to review the order dated 16/03/2022.
7. As far as RTI Act is concerned, the Act does not vest the power of review with the Commission. A review could nevertheless still be held when there is error apparent on the face of the record and not on erroneous decision. In the present case no fresh ground for reconsidering the decision is made out by the Complainant. The order dated 16/03/2022 in the Appeal No. 207/2021/SCIC is self explanatory and a reasoned order based on the documents and submissions of the parties.
8. I have perused the judgement of the Hon'ble Supreme Court relied upon by Adv. A. Kantak, learned counsel for the Opponent No. 1 in the case **Patel Narshi Thakershi & Ors. v/s Pradymansinghji Arjunsinghji (Supra)** paragraph 4 of the said judgement is extracted herein below:-

"4..... It is well settled that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to our notice from which it could be gathered that the Government has power to review its own order. If the Government had no power to

review its own order, it is obvious that its delegate could not have reviewed its order."

9. The Central Information Commission in the case **Mani Ram Sharma v/s Central Information Commission (CIC/WB/A/2009/00016)** has held that:-

"The Right to Information Act cannot be sought to be used to circumvent the procedure of the law. Moreover, under the right to Information Act, the Chief Information Commissioner has no authority to review a decision of the Commission."

10. The High Court of Delhi in the case **Delhi Development Authority v/s Central Information Commission (W. P. No.(c) 12714/2009)** has held that:-

".....Neither the RTI Act nor the rules framed thereunder grant the power of review to the Central Information Commission or the Chief Information Commissioner. Once the statute does not provide for the power of review, the Chief Information Commissioner cannot, without any authority of law, assume the power of review"

11. There is also a recent decision of the High Court of Bombay in the case **Shri Sandip Bhagvatrao Bhakare v/s Shri. Santosh Mohanlal Dave & Ors. (2022 (4) ALL MR 265)** which fortified the above ratio which reads as under:-

"15. It is a settled position of law, that the provisions of a Statute have to be construed and read to have the meaning, power and authority, which is specifically conferred by the provisions of the said Statute and not otherwise. Nothing can be imported into the Statute

which has not been provided therein, by adopting any device or means.”

12. In view of above, I am of the opinion that present review application / complaint is not maintainable. Considering the above, review application/ complaint is dismissed, being not maintainable.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner