

**GOA STATE INFORMATION COMMISSION**  
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**Appeal 105/2023/SCIC**

Public Information Officer,  
 (Mrs. Shraddha Korgaonkar),  
 Village Panchayat Korgao  
 Pernem Taluka Goa 403512.

....Appellant

V/s.

1) Juao Francis Noronha,  
 r/o. Maina Wada,  
 Corgao, Pernem,  
 Goa 403512.

2) First Appellate Authority,  
 Block Development Officer,  
 Pernem Taluka, Pernem,  
 Goa 403512.

.... Respondents

**Shri Aravind Kumar H. Nair – State Chief Information Commissioner**

**Relevant Facts Emerging from this Appeal**

RTI application filed on	- 09-06-2022
PIO replied on	- 08-07-2022
First Appeal filed on	- 26-07-2022
First Appellate order on	- 19-09-2022
Second appeal received on	- 24-03-2023
Decision of the Second Appeal on	- 28-11-2024

**Information Sought and background of the appeal**

1. The RTI applicant Juao Francis Noronha filed an RTI application dated 09/06/2022 to the Village Panchayat Secretary of Korgao, seeking following information :

*“1) Status of action taken, if any, on the demolition order mentioned in reference number ii, in the application dated 10/03/2022 filed by the applicant in respect of execution of demolition orders (copy enclosed)*

*2) Status of action taken, if any, on the demolition order mentioned in reference number iii, in the application dated 10/03/2022 filed by the applicant in respect of execution of demolition orders (copy enclosed)*

*3) In case no action is taken on above mentioned orders by the Village Panchayat, Corgao, then please inform me the name and designation of officer(s) and staff responsible, but failed to take action on the above said orders*

*4) Please inform me the time limit specified in the Panchayati Raj Act to execute such demolition orders*

5) *Please inform me that for not taking any action on above said orders amounts to negligence of duties and abuse of powers by the concerned employee of the panchayat”.*

2. The RTI applicant in his RTI application has enclosed a letter of him dated 10/03/2022 addressed to the Secretary/Sarpanch, Korgao Village Panchayat, Pernem Taluka on execution of demolition orders having following references:

Reference Nos-

- (i) VPC/ILL.CONST.NOT/2021-22/630 dated 21/10/2021
- (ii) VPC/Demolition Notice/2021-22/838 dated 27/12/2021
- (iii) VPC/PER/DEMO.NOT/2019-20/428 dated 09/08/2019

3. The PIO, Korgao Village Panchayat vide letter dated 08/07/2022 replied the RTI applicant as under :

*“With reference to your RTI application inward number 391 dated 09/06/2022, the information sought under point 1, 2, 3, 4 & 5 is not available. The Public authority under RTI is not supposed to create information or to interpret information or to solve the problems raised by the applicants or to furnish replies to hypothetical question.*

*Only such information can be had under the act which already exists with the public authority.*

*This is for your kind information”.*

4. Aggrieved over the reply received from the PIO, the Appellant filed First Appeal dated 26/07/2022 with the following prayers:

- i) *Furnish the information free of cost*
- ii) *Impose penalty & Cost*
- iii) *Any other such orders which the FAA deems fit*

5. The FAA vide order dated 19/09/2022 directed the Respondent PIO to furnish the information sought by the RTI applicant within seven days of the order, free of cost, available in the records maintained by the Village Panchayat.

In the above said order, the date of RTI application is mentioned as 10/03/2022 instead of 09/06/2022. However later, FAA issued a corrigendum dated 26/12/2022 rectifying the date as 09/06/2022 instead of 10/03/2022.

6. Perusal of records indicates that instead of complying with the order dated 19/09/2022 of the FAA directing the PIO to furnish information sought by the RTI applicant within 7 days of the order, free of cost, the PIO filed an appeal dated 24/03/2023 before the State Information Commission with the RTI applicant Mr. Juao Francis Noronha and First Appellate Authority (BDO, Pernem) as Respondent No. 1 & 2, respectively.

**7. Grounds mentioned in the appeal before the Commission by the Appellant (PIO/V.P. Secretary, Korgao Pernem Goa) Mrs. Shraddha Korgaonkar as under :**

- “i) The impugned order passed by the FAA is perverse and bad in law*
- ii) The FAA failed to give detail reasoning while passing impugned order which is mandatory as per settled principle of law*
- iii) The impugned order is without proper scrutiny and verification as to the actual facts and realities*
- iv) The FAA has failed to consider reply dated 08/07/2022 given to Respondent No. 1 in pursuant to the RTI application dated 09/06/2022*
- (v) The FAA has failed to consider that the information sought by the Respondent No 1 is not within the purview of RTI Act.*
- (vi) The impugned order is issued without following the proper procedure of law and hence the same is void and not maintainable.*
- (vii) The impugned order is bad in law and contrary to the facts of the case and law*
- viii) The FAA ought to have considered that since the information sought by the Respondent No. 1 is hypothetical information, the reply given by the applicant is proper and just in eyes of law”.*

8. Following the appeal filed by the PIO, parties were notified and the matter was called out for first hearing on 03/05/2023. Respondent No. 1 appeared in person, representative of the FAA attended but the appellant was absent. In the subsequent hearings, Adv. G. Shetye appeared on behalf of the appellant (PIO in the RTI application of Respondent 1)

**Facts emerging in the course of hearings**

9. With reference to the appeal filed by the appellant (PIO, Korgao Village Panchayat), Respondent No. 1, Juao Francis Noronha (RTI applicant) filed his written reply dated 16/06/2023. He has submitted that the appeal filed before the Commission by Mrs. Shraddha Korgaonkar, PIO of Korgao Village Panchayat is unwarranted, misconceived and frivolous to satisfy her personal ego and also to deliberately harass him mentally and financially. Praying for the dismissal of the appeal, he submitted that, the appeal filed by the PIO is not maintainable, especially for want of provision in relevant law and cited following decided matters:

- (i) Goa State Information Commission in Appeal No. 99/2021/SCIC – PIO, Village Panchayat, Taleigao versus Alex Francis Dias and Ors.*
- (ii) Hon’ble Supreme Court Judgement in Special Leave Appeal (civil) 2013 CC 1853/2013 Karnataka Information Commission v/s SPIO & Anr.*

10. Respondent No. 2, Shri Manohar B. Parwar, (FAA/BDO, Pernem) in his written reply submitted that the First Appellate Authority has decided the first appeal on merits, after following due procedure of law, as such, and hence, the appeal filed by Mrs. Shraddha Korgaonkar be dismissed.
11. The Appellant to this appeal and PIO to the RTI application dated 09/06/2022, Mrs. Shraddha Korgaonkar in her written argument dated 07/12/2023 submitted that she preferred this appeal before the Commission, being aggrieved by the impugned order passed by the Respondent No. 2.
12. The said impugned order dated 19/9/2022 of FAA, Shri Manohar Parwar, BDO, Pernem Goa is reproduced below :
 

*“The Respondent PIO is directed to furnish the information sought by the applicant vide his application dated 10.03.2022 directly to the appellant, within seven days of the order, free of cost, available in the records maintained by the Village Panchayat”.*
13. Justifying the reply given to the five point RTI application dated 09/06/2022, the appellant submits that she has rightly given reply to the RTI application with proper reasoning.
14. Reply from PIO, Mrs. Shraddha Korgaonkar to RTI applicant Joao F. Noronha is as under :
 

*“With reference to your application inward no. 391 dated 09/06/2022, the information sought under point no. 1,2,3,4 & 5 is not available. The Public authority under RTI Act is not supposed to create information or to interpret information or to solve problems raised by the applicants or to furnish replies to hypothetical questions”.*

*In her written arguments in respect of her appeal having RTI applicant and FAA as Respondent 1 and Respondent 2, Appellant reiterated that the order passed by FAA is perverse and bad in law and the FAA failed to give detailed reasoning while passing the impugned order which is mandatory as per settled principle of law. The appellant further submitted that the impugned order is issued by the FAA without following the proper procedure of law and hence the order is void and not maintainable.*
15. Appellant further submitted that the FAA failed to appreciate the fact that PIO is liable to furnish information which is only in their possession and cannot create information to furnish the applicant.
16. During the final argument also the appellant asserted on the above lines.

## **OBSERVATION BY THE COMMISSION**

17. Perusal of records, written submission and arguments during the proceedings in the appeal, Commission observed the following:

(i) The 5 point RTI application of the RTI applicant Juao Francis Noronha is pertaining to his earlier application/complaint on the issue of a demolition and the queries are so simple and clear which not at all required any specific interpretation or research as claimed by the PIO.

(ii) In her reply, PIO stated that the public authority under RTI Act is not supposed to furnish reply to the hypothetical question.

The Commission however did not find any hypothetical question amongst 5 questions mentioned by the RTI applicant in his RTI application.

(iii) The reply dated 03/01/2023 of the PIO to the RTI applicant clearly shows the arrogance of the PIO towards the information seeker and PIO's irresponsible as well as irritative attitude despite having well defined obligations towards the RTI application/applicants.

(iv) The tone and tenor of the reply to the RTI applicant by the PIO is a clear indication of PIO's indifferent attitude towards the RTI applicant.

(v) It is significant to mention that the PIO has failed to comply with the order of the FAA, Block Development Officer and this conduct of the PIO shows lack of concern to the process and provisions of RTI Act.

(vi) Instead of complying with the order of the FAA, PIO approached the Commission challenging the order of the FAA.

(vii) Showing total disrespect and gross indiscipline towards the First Appellate Authority and his order in the first appeal of the matter, the Respondent PIO termed the FAA's order as 'perverse and bad in law' and also claimed that FAA has failed to give detail reasoning while passing order.

(viii) According to the PIO, the impugned order is issued by the FAA without following proper procedure of law and hence the same is void and not maintainable.

(ix) The entire contention of the PIO against the FAA's order branding it as 'perverse and bad in law' is tantamount to question the authority of the FAA and the sanctify of the RTI Act, 2005 which empower the FAA to decide on first appeal.

- (x) The Commission doesn't understand how the FAA's order dated 19/09/2022 directing the PIO "to furnish information sought by the appellant vide his RTI application within seven days of the order, free of cost, as available in the records maintained by the Village Panchayat" will become 'perverse and bad in law'.
- (xi) The FAA's order is crystal clear and it directed the PIO to furnish the information "available in the records maintained by the Village Panchayat" and not directed the PIO for furnish the information by creating.
- (xii) The most fundamental fact with regard to this appeal filed by the PIO placing the information seeker and the FAA as Respondent No. 1 & 2 respectively is that the PIO has no locus standi to file second appeal against the order of the FAA.
- (xiii) PIO cannot file second appeal against the order of the FAA because PIO never be an aggrieved party in the appeal.
- (xiv) *Hon'ble Andhra High Court in PIO, Syndicate Bank, Vijayawada V/s. Central Information Commission WP ( C ) No. 28785 of 2011* states that " the scheme of the RTI Act, 2005 reveal that every public Information Officer nominated as such under the Act has a dual role to play viz. as an officer of the public authority and also the Public Information Officer. While such officer is loyal to his employer while acting in his role as the officer, he acts as quasi-judicial authority while disposing (either providing information on payment of prescribed fee or rejecting the request for any of the reason specified in sections 8 & 9 of the Act) of the request made for furnishing information. This order is subject to further appeals. Therefore, in the opinion of this court, the Public Information Officer cannot dawn the role of the Officer of the Public Authority in relation to the orders passed by the Appellate Authorities against the orders passed by him. If his order (decision) is reversed by the Appellate Authority, he cannot be treated as aggrieved party giving rise to a cause of action for him to question such orders".

### **DECISION**

- (i) **Based on the perusal of the records, facts and circumstances of the matter, arrogant reply of the PIO to the RTI applicant, failure of the PIO to comply with the order of the First Appellate Authority and PIO's approach to the Commission questioning the order of the FAA, despite having no locus standi for that,**

Commission has come to a conclusion that the present matter is fit for imposing penalty on the erring PIO and recommending the competent authority to initiate disciplinary action under appropriate Service Rules.

- (ii) *Apart from the above mentioned facts and circumstances, the arrogant and irresponsible behaviour of the PIO towards the information seeker warrants maximum penalty on her, but the Commission is taking a lenient approach towards the PIO. Hence, in exercise of power granted under Section 20(1) of the RTI Act, 2005 the Commission hereby decided to impose a sum of Rs. 5000/- ( Rupees Five Thousand Only ) as penalty against the PIO, Mrs. Shraddha Korgaonkar, Secretary, Village Panchayat, Korgao, Pernem Taluka, North Goa District Goa 403512.*
- (iii) *The said penalty shall be deducted from the monthly salary of the PIO and shall be credited to the Government Treasury. The copy of this Order shall be communicated to the Director, Directorate of Panchayats, Panaji Goa and Director, Directorate of Accounts, Porvorim Goa for implementation and submitting compliance to the Commission.*
- (iv) **Since the PIO has given an opportunity during final argument to submit her say on imposing penalty for not furnishing information and replying in a rude, irresponsible and arrogant manner to the RTI applicant, the PIO stood firm on her earlier stand of “provided all information to the RTI applicant, and reply dated 08/07/2022 is proper and just in eyes of law, the Commission does not feel the need to serve a further Show Cause Notice to the PIO seeking reply on Commission’s decision to impose token penalty of Rs. 5000/- (Rupees Five Thousand Only) is warranted.**
- (v) **As the PIO utterly failed to comply with the order of the FAA and challenging his order by filing an appeal before the**

Commission despite having no provision to do so, the conduct of the PIO is amounted to gross indiscipline, disrespect to the first appellate authority and violation of the principles and provisions of the RTI Act, 2005'. By terming the FAA's order 'directing the PIO to furnish the information as available in the record maintained by the Village Panchayat' as 'perverse' and bad in law" and "void and not maintainable " as without following proper procedure of law, the PIO questioned the authority of FAA in deciding first appeal and the power and functions bestowed on the FAA by the RTI Act, 2005.

- (vi) In her written submission and oral arguments also, the PIO miserably failed to substantiate on what account, she is being aggrieved over an order issued by the FAA directing her (as PIO) to furnish information available in the records maintained by the Village Panchayat.
- (vii) *Since the above mentioned conduct and irresponsible approach of the PIO is tantamount to gross indiscipline and gross disrespect to the FAA, who is a superior officer to the PIO, the Commission under the provisions of Section 20(2) of the Act recommend the Director of Panchayats, Panaji to initiate appropriate disciplinary action against the PIO, Ms. Shraddha Korgaonkar, Secretary, Village Panchayat, Korgao, Pernem Taluka, Goa under the Service Rules applicable to her and submit the compliance report to this Commission accordingly.*
- (viii) The Commission hereby caution the PIO that government officials are in the service of the public. The RTI Act makes the PIO the pivotal for enforcing the implementation of the Act. It is important to remember that under the RTI law, citizens have a right to access information.



**Aggrieved party, if any, may move against this order by way of a Writ Petition, as no further appeal is provided against this order under the Right to Information Act, 2005.**

- **Hence the matter disposed accordingly.**
- **Proceeding stands closed.**
- **Pronounced in open court.**
- **Notify the parties.**

**( Aravind Kumar H. Nair )**  
**State Chief Information Commissioner, GSIC**

To,

- (1) The Director of Panchayats, Panaji .....is hereby directed to send compliance report to this Commission as regards to deduction of penalty amount of Rs. 5000/- from the monthly salary of Mrs. Shraddha Korgaonkar, for the month of January 2025 in a single instalment. The compliance report should reach this Commission by February 12, 2025.
- (2) The Director of Accounts, Porvorim for information and necessary action.