

# GOA STATE INFORMATION COMMISSION

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## Appeal No. 271/2024/SCIC

Shri. Hiru Undit Gaude,  
R/o. H. No.1331, Aksan Wada,  
Madkai, Ponda-Goa.

----Appellant

V/s

1.The Administrative cum Account Officer,  
The Public Information Officer,  
River Navigation Department,  
Betim-Goa.

2.The Captain of Ports,  
The First Appellate Authority,  
H.O.D/River Navigation Department,  
Panaji-Goa.

-----Respondents

**Shri. ARAVIND KUMAR H. NAIR - State Chief Information Commissioner, GSIC**

### Relevant Facts Emerging from the Appeal

<b>RTI application filed on</b>	- 20/06/2024
<b>PIO replied on</b>	- Nil
<b>First Appeal filed on</b>	- 17/07/2024
<b>First Appellate order on</b>	---
<b>Second appeal received on</b>	- 15/10/2024
<b>Decision of the Second Appeal on</b>	- 22/05/2025

### Information sought and background of the Appeal

- Shri. Hiru Undit Gaude filed an application dated 20/06/2024 under RTI Act, 2005 to the PIO, River Navigation Department (RND) seeking following information :
  - "Copy of memorandum issued by Administrative cum Account Officer to stop my salary from the month of January 2013 to February 2013.*
  - A copy of the memorandum wherein I have signed for having received the above said memorandum.*
  - A copy of my Absentee Statement for the month of October 2012 to February 2013."*
- In response to the RTI application, PIO (Shri. Bernard Devassy, Administrative cum Account Officer), River Navigation Department replied to the Appellant as under :

*"With reference to your letter dated 20/06/2024, I am to furnish herewith the details as requested under RTI Act, 2005.*

*Not available pertaining to your application at Survey No. 1, 2 and 3".*

3. Aggrieved by the reply received from the PIO to his RTI application, Appellant preferred first appeal dated 17/07/2024 before First Appellate Authority (Captain of Ports/HoD, RND) requesting that Respondent PIO be directed to furnish information urgently.
4. Pursuant to the filing of first appeal, Respondent PIO vide letter dated 14/08/2024 replied to the Appellant as under :
  - i. *"Not available pertaining to your application at Serial No.1 and 2.*
  - ii. *The absence statement of Flotilla Staff from 06/02/2013 to 05/03/2013 is enclosed which shows the absence in the month of October 2012 to February 2013."*
5. Failing to receive any order from the FAA in his first appeal, Appellant preferred Second appeal dated 15/10/2024 before the Commission stating that :
  - a. Respondent PIO replied (14/08/2024) that information pertaining to Serial No. 1 and 2 in the RTI application is not available.
  - b. Respondent No.2 (FAA) has till date not communicated any order, if any, passed in the first appeal.
6. Appellant prayed before the Commission that-
  - i. Necessary compensatory order be passed against the Respondent No.2 (FAA) for having failed to decide the first appeal within the time prescribed under RTI Act, 2005.
  - ii. Respondent No.1 be directed to furnish the information sought for.
  - iii. Respondent be directed to pay the cost of filing.
  - iv. Any other consequential relief.

### **Facts Emerging in Course of Hearing**

7. Pursuant to the filing of Second appeal by the Appellant, parties were notified fixing the matter for hearing on 27/02/2025 for which Appellant appeared along with Adv. D. Gauns and Respondent PIO Mrs. Supriya

Raut appeared along with Ms. Lia Fernandes, Head Clerk/APIO. Respondent PIO agreed to file reply to the appeal memo before the next date of hearing. Appellant requested that a certified copy of the information sought at Point No.3 in the RTI be provided. At Point No.3, the Appellant sought absentee statement in respect of him for the month from October 2012 to February 2013. Accordingly, Commission directed the Respondent to file fresh reply to the Appellant in accordance with the RTI application and fixed the matter on 07/04/2025.

8. On 07/04/2025, Respondent filed letter dated 07/04/2025 to the Appellant containing fresh reply as under to all the 3 points in the RTI application -

“Point No. 1- Not issued pertaining to your application.

Point No. 2 - Not applicable pertaining to your application.

Point No. 3 -Absentee statement of the Flotilla staff dated 06/03/2013  
is enclosed”.

9. Along with the above reply and absentee statement of the Flotilla staff dated 06/03/2013, Respondent PIO filed a copy of the order dated 08/09/2020 issued by the Captain of Ports, HoD, River Navigation Department containing details of unauthorised absence from duty by the Appellant w.e.f. 27/02/2013 and declaring the period of unauthorised absence of 1808 days, after departmental inquiry, as ‘Dies Non’ for all purpose with increment, Leave and Pension.
10. Since the matter was not heard on 07/04/2025 on account of the official tour of the Presiding Commissioner, the matter was adjourned to 29/04/2025.
11. Appellant appeared along with Adv. Poonam Palkar for the hearing on 29/04/2025 and Respondent PIO was also present in person. PIO filed a bundle of documents which include :
  - i. Absentee statement of Flotilla staff including the Appellant Shri. Hiru Gaude for the period from 12/07/2019 to 01/04/2025 with the mention of ‘Not Regularised’ in the Remark Column against the name of the Appellant.

- ii. Copy of the Note stating that salary paid to the Appellant for the month of January 2013 to 26/02/2013, period of absence without any authority from the duty from 27/02/2013 to October 2017. (1707 days plus 101 days subsequently) Total 1808 days, which considered as Dues Non for all purpose).

Since the Appellant aired doubt about the receipt of the pay for the period January 2013 to February 2013, the note dated 31/01/2024 submitted to the HoD, River Navigation Department, established that the River Navigation Department paid salary for the period from January 2013 to February 26 2013.

- iii. Note containing details of salary paid to the Appellant from November 2017 to April 2023.

12. During the hearing on 15/05/2025, Appellant's Advocate insisted the Respondent PIO to furnish the copy of the Memorandum issued by the Authority stopping payment of salary to the Appellant from January 2013 to February 2013. Respondent PIO orally submitted before the Commission that no such Memorandum was issued by the Authority(River Navigation Department) to the Appellant and further submitted that in the absence of issuing any memorandum to the Appellant by the Authority, Respondent PIO is unable to furnish a copy of the same to the Appellant under RTI Act. Commission directed the Respondent PIO to file proper reply/submission as to why the payment of salary for the above said January 2013- February 2013 was not paid on time to the Appellant and fixed the matter for final argument/order on 22/05/2025.

13. When the matter called out for final argument on 22/05/2025, Appellant appeared along with Adv. Poonam Palkar and Respondent PIO appeared along with Ms. Lia Fernandes. Respondent PIO filed written submission dated 22/05/2025 along with a bunch of documents. In the Submission Respondent PIO stated that-

- i. Appellant's salary for the period of 01/01/2013 to 26/02/2013 was not paid as he had not regularised his 111 days absence inspite of issuing memo to him.

- ii. As per the direction of Goa Commission for SC/ST Department, Appellant's salary for the period 01/01/2013 to 26/02/2013 was paid later without regularising his 111 days absence.
- iii. Copy of Roznama (of Goa Commission for SC/ST dated 30/10/2017) submitted by Respondent PIO stated that "*After discussion in the hearing, Shri Hiru Gaude has agreed to report to the department from 31/10/2017 and Department agreed to release his bills within 15 days of working period. Hence matter stands adjourned and fixed on 30/11/2017.*"
- iv. Absentee statement of the Flotilla staff issued by the Traffic Section vide dated 06/03/2013 clearly recorded that Appellant Shri. Hiru U. Gaude, Sailor, was absent without intimation w.e.f 13/06/2012 to 09/10/2012 for 111 days and he was issued memo to report duty on many occasions.

14. Respondent PIO enclosed copies of the following document along with the submission dated 22/05/2025 :

- a. Copy of the Roznama of the proceedings of the Goa Commission for SC/ST dated 30/10/2017.
- b. Memorandum dated 08/10/2013 issued by the HoD/RND intimating the Appellant about the proposed inquiry against the Appellant Shri. Hiru Gaude, Sailor under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965.
- c. Statement of Articles of charge framed against Shri. Hiru Gaude.
- d. Absentee statement of the Flotilla staff from 06/02/2013 to 05/03/2013.
- e. Letter dated 10/05/2013 addressed to the Police Inspector, Ponda Police Station by Administrative-cum-Accounts Officer, River Navigation Department requesting to serve the Shri. Hiru Gaude the Complaint dated 14/02/2013 filed against Hiru Gaude by Traffic Inspector of River Navigation Department.
- f. 05 show cause notices issued to Shri. Hiru Gaude in June, October, November, December 2012 and February 2013.

15. Appellant's Advocate submitted that Appellant is not interested in the above said documents and only wanted the copy of the memo issued by the public authority stopping the payment of salary for the month of January 2013- February 2013 and requested to allow the Appeal and grant compensation to the Appellant.

### **Commission's Observations**

- i. Appellant in his RTI application has sought memo issued by the Administrative-cum-Account Officer of River Navigation Department stopping salary for the month of January 2013 to February 2013, copy of the said memo signed by Appellant acknowledging the receipt of the same and Absentee statement for the month of October 2012 to February 2013.
- ii. Appellant's salary was withheld on the ground of unauthorised absence but released later on intervention by Hon'ble Commission for SC/ST.
- iii. Appellant sought memo issued by the Authority stopping payment of salary for the month of January to February 2013 but during the course of hearing Appellant never admitted that the said salary was paid by the Authority later.
- iv. From the outset of the proceedings in the present appeal, Respondent PIO submitted orally before the Commission that the authority concerned never issued any memorandum to Shri. Hiru U. Gaude, Sailor (Appellant in the present appeal) stopping the payment of his salary for the month of January 2013 and February 2013.
- v. Subsequently, Respondent PIO in the revised letter dated 07/04/2025 furnished proper reply/information covering all the 3 queries of the Appellant.
- vi. Since the Authority has not issued any memorandum stopping the payment of salary of Shri. Hiru U. Gaude for the month January 2013 and February 2013, Respondent PIO cannot furnish such a non-existing document to the Appellant.
- vii. The non-issue of memo to Shri. Hiru U. Gaude before stopping the payment of his salary for the month of January 2013 and February 2013, is an administrative issue/error and the Appellant has to take up his grievance in this regard to the appropriate forum as the Commission can only direct to furnish the information available with the concerned PIO to the Appellant.

- viii. Since the information sought by the Appellant (i.e. memo issued by the Authority stopping payment of his salary for January and February 2013) is a non-entity, there is no scope to issue direction to the PIO or to take penal or disciplinary action against the Respondent PIO.

### **DECISION**

- 1. Commission has come to the conclusion that Respondent PIO cannot be held responsible for not issuing memorandum to Shri. Hiru U. Gaude to the stoppage of his salary for the month of January 2013 and February 2013 as it is an Administrative/Accounts issue and does not falls under the ambit of RTI Act, 2005. Appellant is at liberty to take up this administrative error or Appellant's grievance in this regard with appropriate forum for redressal.**
- 2. In the present appeal, Appellant is not eligible for any compensation because compensation to be awarded on the basis of loss and/or detriment suffered by the applicant due to denial of information and not on extraneous consideration.**
- 3. Delhi High Court in NTPC Ltd. V/s. Mohd. Samad Khan, W.P (c) 540 (3) of 2008 held that compensation has to be awarded under Section 19 (8) (b) is for the loss or the detriment suffered "*on account of the denial of such information*" and not just about any loss or detriment suffered by such person.**
- 4. In the present appeal, Respondent PIO has not wilfully or malafidely denied any information leading to loss or detriment suffered by the Appellant.**
- 5. Respondent PIO could not furnish the information sought (copy of a memo) by the Appellant on the ground that such memo is a non-entity and non-issue of the said memo may be on administrative error and Respondent PIO cannot be held liable for that.**

**6. Appeal stands disposed off without any further direction to the Respondent PIO.**

***Respondent No.2 (FAA) is directed to file an explanation for not disposing the first appeal filed by the Appellant u/s 19(6) of the RTI Act, 2005 and failing to communicate/ provide copy of the order passed in the first appeal.***

***Explanation should reach the Commission within 15 days from the receipt of this order.***

**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.**

- Proceeding stands closed.
- Pronounced in open Court.
- Notify the parties.

Sd/-

**(ARAVINDKUMAR H. NAIR)**  
State Chief Information Commissioner, GSIC