GOA STATE INFORMATION COMMISSION
"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001
Tel: 0832 2437208, 2437908 E-mail: spio-gsic.goa@nic.in
Website: www.gsic.goa.gov.in

Appeal No. 291/2022/SCIC

Mr. Bellarmin P. Fernandes,
1/3772, Behind New Collector Office,
Balepand, Fatorda,
Margao, Goa ……Appellant

V/s

1.The Public Information Officer (PIO),
Executive Engineer, Works Division XII,
Office of WRD, Gogol, Margao-Goa

2.The First Appellate Authority,
Superintendent Engineer,
Central Planning Organization,
WRD, Sinchai Bhawan, Near Police Station,
Alto-Porvorim, Goa

3.Uday Rama Naik,
Work Division XII,
Water Resources Department,
Gogol, Margao, Goa ……Respondents

Shri. Vishwas Satarkar, State Chief Information Commissioner

Filed on: 21/11/2022
Decided on: 08/02/2024

ORDER

1. The Appellant, Mr. Bellarmin P. Fernandes, r/o. 1/3772, Behind New Collector Office, Balepand, Fatorda, Margao Goa, vide his application dated 05/08/2022 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), Executive Engineer, Works Division XII, Office of WRD, Gogal, Margao Goa.

2. According to the Appellant, the said application was responded by the PIO on 11/10/2022 in the following manner:-

> " *In respect of Shri. Uday R. Naik, Draughtsman is consider as personal information under Section 8(1)(j) of the RTI Act, 2005 and hence cannot be furnished."*

3. Being aggrieved with the reply of the PIO, the Appellant filed first appeal before the Office of Superintending Engineer, Central Planning Organization, WRD, Sinchai Bhavan, Porvorim, Bardez, Goa on 20/09/2022 being the First Appellate Authority (FAA).

4. The FAA, vide its order, upheld the reply of the PIO and dismissed the first appeal on 18/10/2022.

5. Feeling aggrieved and dissatisfied with the order of the FAA dated 18/10/2022, the appellant preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information as per his RTI application dated 05/08/2022 and impose penalty on the PIO for non furnishing the information.

6. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 09/01/2023, representative of the PIO Shri. Ajay Desai appeared and placed on record the reply of the PIO dated 09/01/2023, representative of the FAA Shri. Vivek Joshi appeared on 09/01/2023, however, opted not to file any reply in the matter.

7. In the meantime, Shri. Uday Naik filed an application on 05/05/2023 and prayed to arraign him as an intervening party. The Commission, by an order dated 25/07/2023, arraigned Shri. Uday Naik as Respondent No. 3 and subsequently, he filed his reply on 06/10/2023.

8. Perused the pleadings, replies, rejoinder, written arguments and considered the documents on record.

9. At the outset, it is to be noted that the present appeal is full of legal infirmities and omissions. The appellant failed to produce on record a copy of the RTI application dated 05/08/2022 which is a vital document in deciding the matter. Having gone through the appeal memo dated 18/11/2022, the Appellant categorically pleaded that the present appeal arised out of Order received from Respondent No. 2 in first appeal dated 13/12/2021. However, he relied upon the order of the FAA dated 18/10/2022. Again, the so-called reply dated 11/10/2022 which is quoted by the Appellant in paragraph No. 3 of the Appeal memo, does not pertain to this case. Further, the record shows that the document relied upon by the appellant at Exhibit 'D' in this second appeal Viz letter No. 37-1-98/CE-WR/Adm.II/RTI/592 dated 11/10/2022 pertains to some other RTI application dated 17/08/2022.

10. In this context, it would be necessary to refer to the provisions of Section 19(10) of the Act, which reads as under:-

"19. Appeal

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

11. In exercise of power conferred by section 27 of the Right to Information Act, 2005, the Government of Goa made Rules there under called the Goa State Information Commission (Appeal Procedure) Rules, 2006. Rule 4 of the said Rules read as under:

> Document to accompany appeal:-
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> *Every appeal made to the Commission shall be, accompanied by the following documents, namely:*
>
> *(i) Self attested copies of the Orders or documents against which the appeal is being preferred, unless, the appeal is preferred against deemed refusal.*
>
> *(ii) Copies of documents relied upon by the appellant and referred to in the appeal, and*
>
> *(iii) an index of documents referred to in the appeal.*

12. The Hon'ble High Court of Delhi in the case **Delhi Development Authority V/s Central Information Commission & Anrs. (W.P. No. (c) 12714/09)** has held as under:-

> *"36. We would also like to re-iterate the provisions of Section 19(10) of the RTI 5 Act. Section 19, as we have mentioned earlier, deals with appeals. Sub-section (10) of Section 19 clearly stipulates that the Central Information Commission or the State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure "as may be prescribed". The word "prescribed" is defined in Section 2(g) of the RTI Act to mean prescribed by the rules made under the RTI Act by*

the appropriate Government or the competent authority, as the case may be. It has no reference to any regulations made or to be made by the Chief Information Commissioner. Thus, the mandate of the Act is that the Central Information Commission shall decide the appeal in accordance with the rules made under the said Act by the appropriate Government or the competent authority, as the case may be and not otherwise. "

13. In the present case, the Appellant preferred this second appeal under section 19(3) of the Act, without accompanying proper documentation, which is mandatory as per the provisions of the Act.

14. Considering the above, the appeal does not deserves any merit. Accordingly, the matter is disposed off as not maintainable. Liberty is granted to the Appellant to file a fresh appeal, if desired according to the provisions of the Act.

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

Sd/-
(Vishwas R. Satarkar)
State Chief Information Commissioner