

GOA STATE INFORMATION COMMISSION
"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001
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Appeal No. 49/2024/SCIC

Shri. Juber Aahmmad Lohar,
Flat No.311, Phase 3B,
Susheela Sea Winds,
Opposite Shipyard, Near Vaddem Lake,
Vasco da Gama.

V/s

1.The Public Information Officer,
Secretary,
Village Panchayat Chicalim,
Vasco da Gama, Chicalim,
Vasco, Goa.

2.The First Appellate Authority,
Block Development Officer,
Mormugao Taluka,
Vasco, Goa.

-----Appellant

----Respondents

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

Relevant Facts Emerging from the Appeal

RTI application filed on	- 04/08/2023
PIO replied on	- 02/09/2023
First Appeal filed on	- 15/09/2023
First Appellate order on	- 13/10/2023
Second appeal received on	- 09/02/2024
Decision of the Second Appeal on	- 19/08/2025

Information sought and background of the Appeal

1. Shri. Juber Aahmmad Lohar filed an application dated 04/08/2023 under RTI Act, 2005 to the PIO, O/o. the Village Panchayat, Chicalim seeking information at 17 points in connection with Shri. Juber A. Lohar (Appellant) receiving -
- i. Memo of intimation dated 24/06/2023.*
 - ii. Show cause notice dated 24/06/2023 and*
 - iii. Another memo of intimation dated 29/07/2023 which was affixed by the Secretary of Village Panchayat, Chicalim on the wall of applicant's shop "Suhil Furnitures" on 29/07/2023.*

2. The information sought by the Appellant internalia includes :

- i. *Kindly furnish the provisions of law (clearly specify the Act, Section, Sub- Section and or Rules, Sub-Rules) under which show cause notice dated 24/06/2023 was issued by the Secretary, Village Panchayat, Chicalim (Point No.9 in Appellant's RTI application).*
- ii. *Kindly furnish the provisions of law (clearly specify the Act, Section, Sub- Section and or Rules, Sub-Rules) under which memo of intimation dated 29/07/2023 was issued by the Secretary, Village Panchayat, Chicalim (Point No.10 in RTI application).*
- iii. *Kindly furnish the provisions of law (clearly specify the Act, Section, Sub- Section and or Rules, Sub-Rules) under which Secretary, Village Panchayat, Chicalim has personally sealed the Applicant's shop 'Suhil Furniture' on 29/07/2023 (Point No.11).*
- iv. *Kindly furnish the provisions of law (clearly specify the Act, Section, Sub- Section and or Rules, Sub-Rules) under which memo of intimation dated on 29/07/2023 when the Appellant was not there in the shop (Point No.12).*
- v. *Kindly furnish the provisions of law (clearly specify the Act, Section, Sub- Section and or Rules, Sub-Rules) under which the Resolution bearing No.6/14 held on 25/07/2023 (as mentioned in memo of intimation dated 29/07/2023 has passed when the Appeal is pending before the Additional Director of Panchayat-II, Margao (Point No.14).*
- vi. *Furnish the provision of law (clearly specify the Act, Section, Sub-Section and or Rules, Sub-Rules) under which the Secretary is allowed to take action on the "opinion" of Panch members/Sarpanch/Dy. Sarpanch (Point No.15).*

3. In response to the RTI application, PIO, Village Panchayat, Chicalim Village Panchayat vide letter dated 02/09/2023 replied as under :

"With reference to the information at Point No.2, the same cannot be submitted in terms of Section 8(1) (j) of the RTI Act, 2005 being personal information. While the rest of the information sought for in other points being voluminous, thereby resulting in disproportionately diverting the resources of this office in providing you the said information, you are requested to come to

the panchayat office today at 4 p.m. for the inspection of the records in connection with the said information sought for by you”.

4. There is no material available before the Commission along with the present appeal to substantiate that visit of the Appellant to the office of the PIO for inspection of records. However there is reasonable ground to doubt the opportunity to inspect the records granted to the Appellant by the PIO because the letter is dated 02/09/2023 and the time allotted to the Appellant for inspection is 4.00 p.m. on the same day. There is no proof on the dispatch of the letter and receipt of the same by the Appellant.

Moreover, it is a natural principle of justice that the Appellant should be given reasonably prior intimation and the present letter dated 02/09/2023 intimating the applicant to come for inspection at 4.00 p.m. on the same day can be considered as an eye wash on the part of PIO.

5. Being aggrieved by the reply furnished by the PIO, Appellant filed first appeal dated 15/09/2023 before the First Appellate Authority (Block Development Officer, Mormugao) stating that the reply of the Respondent PIO is totally against the provisions of RTI Act and Respondent PIO is legally bound to furnish information sought under RTI Act. Appellant further stated that even after 43 days of filing the application, PIO has not furnished any information.
6. Appellant further submitted that the Additional Director of Panchayats has written a letter to the Director of Panchayats to take disciplinary action against the Respondent due to insubordination. Appellant in his first appeal prayed to furnish the information sought under RTI Act, impose penalty and initiate disciplinary proceedings against the Respondent PIO.
7. **FAA vide order dated 13/10/2023 directed the Respondent PIO to furnish information sought by the Appellant under his RTI application dated 04/08/2023.**

8. Pursuant to the order passed by the FAA on 13/10/2023, Respondent PIO vide letter dated 07/11/2023 replied to the Appellant's RTI application covering all the 17 points in the RTI application as mentioned below:

Point No.1 and 2	Certified copy of the ward members list with name and address of the ward members is enclosed.
Point No.3	Certified copies of the details of payments made to Panch Members/Sarpanch/Deputy Sarpanch is enclosed herewith.
Point No. 4 and 6	Certified copy of the Panch Members/Sarpanch/Deputy Sarpanch of Chicalim Village Panchayat who were present while passing the Resolution Bearing No. 5/2 held on 07/06/2023 is enclosed herewith.
Point No.5	Certified copy of Resolution Bearing No. 5/2 held on 07/06/2023 is enclosed herewith.
Point No.7	Certified copy of the Resolution Bearing No. 6/21 held on 07/06/2023 is enclosed.
Point No. 8	Certified copies of the complaints dated 29/04/2023 and 24/01/2023 filed by Smt. Poonam Datta Chari are enclosed herewith.
Point No.9,10,11 and 12	The Village Panchayat functions under the provisions of Goa Panchayat Raj Act 1994, which is in public domain
Point No.13	Certified copy of the Panch Members/Sarpanch/Deputy Sarpanch of Chicalim Village Panchayat, who were present while passing the Resolution Bearing No.6/14 held on 25/07/2023 is enclosed herewith.
Point No.14,15,16 and 17	Village Panchayat function under the provision of Goa Panchayat Raj Act 1994, which is in public domain.

9. Subsequently, Appellant preferred Second appeal dated 09/02/2024 before the Commission stating that:

- Reply of Respondent No.1 (PIO) is totally against the provisions of RTI Act, 2005.
- No information was furnished within the stipulated 30 days.
- Wilful negligence and failure to perform the duty within the ambit of the RTI Act on the part of the Respondent No.1 has caused severe injuries to the Appellant as these documents are highly essential for the Appellant to file before the Hon'ble Court.

10. Appellant prayed before the Commission that :

- i. Necessary order be passed directing the Respondent No.1 to provide correct and complete information sought by the Appellant at Point No.9, 10, 11, 12,14,15,16 and 17 of the RTI application.*
- ii. Impose penalty on Respondent No.1 (PIO Shri. Amrit G. Sakhalkar) for not providing information within the time limit.*
- iii. Recommend disciplinary proceedings against Respondent No.1*

FACTS EMERGING IN COURSE OF HEARING

11. Pursuant to the filing of the present appeal by the Appellant, parties were notified fixing the matter for hearing on 15/01/2025 for which Appellant and FAA present but Respondent PIO absent. Copy of the appeal memo duly served to the FAA. Notice for hearing dispatched to the Respondent No.1/PIO returned with postal remark '*party left*'. Appellant requested for a longer date and granting request, matter adjourned to 12/03/2025.

12. When the matter called out for hearing on 12/03/2025, Appellant and Respondents remained absent but later Advocate for Appellant appeared and filed Wakalatnama and matter adjourned to 24/04/2025.

13. Appellant and Respondent PIO remained absent for the hearing held on 24/04/2025 but FAA, Shri Emanuel A.S. Da Costa present. Advocate for Appellant vide email informed her inability to attend the matter due to health issues. FAA informed the Presiding Commissioner that the Respondent PIO (Respondent No.1) in the present appeal Shri. Amrit Sakhalkar has been transferred a year back and a new Secretary is posted in Village Panchayat Chicalim. Issued notice to the present PIO for presence along with submission in the matter in the next date of hearing 22/05/2025.

14. Matter took up for hearing on 22/05/2025 for which Appellant absent but his Advocates Suresh Babu R. and Seeja K.S. present. Respondent PIO absent but Adv. Z. De Souza present for Respondent

PIO. A copy of the Appeal memo duly served to the Advocate for Respondent PIO. Directed the Respondent PIO to file point-wise proper reply information on the next date of hearing. Issued notice to the Respondents including previous PIO for their presence on the next date of hearing i.e. 04/06/2025.

15. Appellant and Respondent PIOs (previous and present) absent but their Advocates present. FAA (BDO, Mormugao) present. Adv. Zeller De Souza filed Respondent PIO's reply to the Appeal memo with an additional copy to the Appellant.
16. When the matter called out for hearing on 26/06/2025, Appellant absent and his Advocates vide email dated 26/06/2025 intimated their inability to attend the matter. Matter adjourned to 15/07/2025 for final arguments.
17. Appellant and Respondents absent but Adv. Suresh Babu along with Adv. Seeja K.S present for Appellant and Adv. Zeller De Souza present for the Respondent PIOs. Adv. De Souza filed a table showing the posting of three different PIOs (Village Panchayat Secretaries) at Village Panchayat Chicalim for the period from the date of filing of the Appellant's RTI application dated 04/08/2023 till date supported by transfer and relieving orders issued by the BDO Mormugao, South Goa. Matter posted for final arguments by the Advocates for Appellant and Respondent on 19/08/2025.
18. When the matter called out for hearing on 19/08/2025, Advocate for Appellant filed written synopsis on the present appeal and failure of the Respondent PIO(Respondent No.1) to furnish information which states that :
 - i. Appellant is running a shop namely 'Suhil Furniture' which was established by the Appellant's father in 1998 and having Registration No. DI/SGDO/CIC/12/240 dated 17/02/1998 as a "small scale industry under the category of cottage industry" which is exempted from NOC from authorities such as Panchayat.

- ii. There is a dispute between the Appellant and the present owner of the shop who is a Panch member of Chicalim Village Panchayat.
- iii. Under the influence of the present shop owner Mrs. Poonam Chari and Panch member, Village Panchayat Chicalim, has been asking the Appellant continuously to furnish Trade licence.
- iv. The matter further brought before the Additional Director of Panchayats, by the Appellant.
- v. While the matter was pending before the Additional Director, Panchayats, Secretary, Village Panchayat, Chicalim (Respondent No.1) Shri. Amrit G. Sakhalkar personally came to the Appellant's shop and a 'Memo of Intimation' dated 29/07/2023 affixed himself on the wall of Appellant's shop 'Suhil Furniture'.
- vi. Appellant received a memo of intimation dated 24/06/2023, Show Cause Notice dated 24/06/2023 and another memo of intimation was affixed by the Secretary, Village Panchayat Chicalim on the wall of Appellant's shop on 29/07/2023.
- vii. Respondent No.1 has already been warned by the State Information Commission in Appeal Nos. 64/2023/SIC and 66/2023/SIC for wilful neglect of his official duties under RTI Act, 2005.
- viii. Respondent No.1 deserves penalty and disciplinary action in view of his failure in the official duties under RTI Act, 2005.

19. Advocate for Appellant further filed some decided matters in the Civil Appeals in the Hon'ble Supreme Court of India to strengthen his argument that *"the Right to Information is a cherished right. Information and right to information are intended to be formidable tools in the hands of citizens to fight corruption and to bring in transparency and Accountability."*

20. Advocate for Respondent PIO cited the Hon'ble Supreme Court decided matter ***CBSE Vs Aditya Bandopadhyay and others. (Civil Application No.6454 of 2011)*** and specifically highlighted para 63 of the order in this matter as under *"at this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and that definitions of "information"*

and "right to information" under clauses (f) and (j) of Section 2 of the Act. if a public authority has any information in the form of data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of public authority to collect or collate such non-available information and then furnish it to an applicant".

21. In response to the RTI application dated 04/08/2023, PIO vide letter dated 02/09/2023 replied to the Appellant as under :

"With reference to the information at paragraph 2, the same cannot be submitted interms of Section 8(1) (j) of the RTI Act 2005 being personal information. While the rest of the information sought for in other paragraph being voluminous, thereby resulting in disproportionately diverting the resources of this office in providing you the said information. You are requested to come to the Panchayat office today at 4 p.m. for the inspection of the records in connection with the said information sought for by you."

22. Advocates of both Appellant and Respondents placed detailed arguments before the Commission on 19/08/2025. When the Appellant's Advocates argued in support of his request for an order directing the Respondent PIO to furnish information sought at Point No.9, 10, 11, 12,14,15,16 and 17 of Appellant's RTI application dated 04/08/2023, penal and disciplinary action against the Respondent PIO **(then PIO and Village Panchayat Secretary Shri. Amrit Sakhalkar)**, Advocate for Respondent PIOs argued that whatever available information was furnished to the Appellant and Respondent PIO cannot create information to cater the request of the Appellant.

COMMISSION'S OBSERVATION

- i. Perusal of materials available before the Commission reveals that the Appellant's 17-point RTI application dated 04/08/2023 is the outcome of the show cause and memo of intimation served on the

Appellant by the Secretary Village Panchayat Chicalim and subsequently Village Panchayat Secretary personally sealing the shop of the Appellant.

- ii. Appellant was not intimated in advance calling for inspection of records and intimating the Appellant vide letter dated 02/09/2023 for inspection of records at 4 p.m. on the same day, is tantamount to the denial of opportunity for inspection. There is no material available to confirm that inspection was carried out by the Appellant.
- iii. Eventhough the original RTI application contain 17 RTI queries, in the present appeal, it is limited to Point No.9, 10, 11, 12, 14,15, 16 and 17 during the course of proceedings and specifically insisted under which provisions of Law or Rules, Secretary, Village Panchayat Chicalim :
 - i. Served show cause notice dated 24/06/2023 on Appellant.
 - ii. Memo of intimation dated 29/07/2023 was issued to the Appellant.
 - iii. Village Panchayat Secretary personally sealed the shop of Appellant on 29/07/2023 and Village Panchayat Secretary personally sealed the shop of Appellant in his absence.
 - iv. As part of discharging their duties and responsibilities, every public servant is empowered and bound to take official actions but subject to the provisions of various Laws or Acts or Rules and public servant cannot take any official actions as per his/her own whims and fancies.
 - v. In the matter of the present appeal, PIO's reply to the Query No.9,10,11,12,14,15,16 & 17 that the Village Panchayat function under the provision of Goa Panchayati Raj Act, 1994.
 - vi. Appellant is not questioning the Village Panchayat authority or actions taken by the Secretary, Village Panchayat Chicalim against Appellant's shop but only through RTI application, being a citizen, sought specific Provision/Section/Sub section of the Law/Act/Rules under which the concerned Secretary, Village Panchayat Chicalim acted against the shop of the Appellant.

- vii. Since the action initiated by the then PIO/Secretary, Village Panchayat Chicalim against the shop of the Appellant might be invariably under particular section, provision or clause of the Goa Panchayati Raj Act 1994, Respondent PIO must furnish the same to the Appellant instead of giving a general reply that Village Panchayati functions under the provisions of the Goa Panchayati Raj Act 1994.
- viii. Being the aggrieved party of the action initiated (issuing of show cause notice, memo of intimation, sealing of the shop, direction to demolish the shop and above said actions when the matter is pending before Additional Director of Panchayats) by the Secretary, Village Panchayat Chicalim, Appellant has every right to know under which provisions of the Law/Act/Rules, the Secretary, Village Panchayat Chicalim initiated actions against the shop of the Appellant.
- ix. Documents submitted by the Appellant's Advocate reveals that in earlier two appeals (Appeal No.64/2023/SIC & Appeal 66/2023/SIC), the same Respondent No.1, Shri. Amrit Sakhalkar, then PIO and Secretary, Village Panchayat was warned by the State Information Commissioner to respond to the applications received u/s. 6(1) of the RTI Act and any violations by the said PIO will be viewed strictly as per the provisions of the Act.

DECISION

- 1. Considering the above said facts and circumstances, perusal of material available before the Commission and the arguments advanced before the Commission by the lawyers of Appellant and Respondent PIO, Commission hereby directed the present PIO (Shri. Kapil Naik) of Village Panchayat Chicalim to furnish appropriate information in respect of Point No.9,10,11,12,14,15,16 and 17 of the Appellant's RTI application dated 04/08/2023 within 15 days from the date of receipt of this order and submit compliance report within 20 days from the date of receipt of this order.**

2. Commission further decided to issue show cause notice to the then PIO Shri. Amrit Sakhalkar (Respondent No.1 in the present appeal) *"why penalty should not be imposed on him for not fully complying with the order dated 13/10/2023 passed by the FAA, furnishing general and vague reply to the Point No. 9-12 and 14-17 of the RTI application of the Appellant when the RTI queries at the above said points were specific and precise."*
3. Since there was no ambiguity in the RTI application of the Appellant, Respondent PIO could have settle the issue at his level itself by furnishing proper information instead of bringing the matter to the level Commission at the cost of time, energy and resources of all parties to the present appeal. As PIO, Shri. Amrit Sakhalkar's attitude as well as approach towards RTI seekers is clearly reflected in the warning issued by the then State Information Commissioner in Appeal No.64/2023/SIC and Appeal No. 66/2023/SIC.

Reply to the show cause notice should reach the Commission within 15 days from the receipt of this order.

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

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.

Sd/-

(ARAVIND KUMAR H. NAIR)
State Chief Information Commissioner, GSIC