

## GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

E-mail: spio-gsic.goa@nic.in Website: [www.scic.goa.gov.in](http://www.scic.goa.gov.in)

### Appeal No.121/2025/SCIC

Mahableshwar P. Halanker,  
S-27, D-Block, Aristrocrate Appts,  
Mangoor Hill, Vasco da Gama,  
Goa 403802.

-----Appellant

V/s

1.The Public Information Officer,  
Mormugao Planning & Development Authority,  
Vasco da Gama, Goa.

2.The Member Secretary & First Appellate Authority,  
Mormugao Planning & Development Authority,  
Vasco da Gama, Goa.

-----Respondents

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

### **Relevant facts Emerging from the Appeal**

RTI application filed on	18/12/2024
PIO replied on	14/01/2025
First Appeal filed on	03/02/2025
First Appellate order on	07/03/2025
<b><i>Second appeal received on</i></b>	<b><i>20/05/2025</i></b>
<b><i>Decided on</i></b>	<b><i>24/09/2025</i></b>

### **Information sought and background of the Appeal**

1. Shri. Mahableshwar P. Halanker filed an application dated 18/12/2024 under RTI Act, 2005 to the PIO, Mormugao Planning & Development Authority(MPDA) seeking following information :

- i. "Certified copy of legal opinion letter Reference No. MPDA/1-H-14/2024-25/318 dated 20/06/2024 addressed to Adv. Nikhil D. Pai, FF-I A, 5<sup>th</sup> Floor, Dr. Dada Vaidya Road, Panaji Goa.*
- ii. Certified copy of legal opinion given by said Adv. Nikhil Pai.*
- iii. Certified copy of legal opinion letter sent to Advocate General, Government of Goa as claimed by Adv. Nikhil before Lokayukta in hearing held on 13/12/2024 in proceeding No.6/2024 in connection with Member Secretary's, letter Reference No. MPDA/1-H-14/2024-25/318 dated 16/10/2023 and reply letter dated 13/05/2024 filed by Mahableshwar Halanker".*

2. In response to the RTI application, PIO vide letter dated 14/01/2025 replied as under :

*"With reference to your application, it is to inform you that the information sought by you at Serial No.1 and 2 cannot be issued as per Section 8(1) (e) of the RTI Act, 2005. The information sought at Serial No.3 is not available in the office records of this authority. Hence cannot be provided".*

3. Being aggrieved by the reply of the PIO, Appellant filed first appeal dated 03/02/2025 before the First Appellate Authority (FAA), Mormugao Planning and Development Authority stating that the information sought at Serial No.1 and 2 of the RTI application is under printed format and falls under Sub Section (5) of Section 7 of the RTI Act, 2005 and not under Section 7 (1) of the Act. Hence PIO's decision that information sought at Serial No. 1 and 2 cannot be issued as per Section 8(1) (e) of the RTI Act, 2005 is deliberate and within the Rule of RTI Act, 2005.

Appellant prayed that Respondent is under obligation to provide information sought under Serial No.1 and 2 of the RTI application.

4. FAA (Member Secretary, Mormugao Planning and Development Authority) passed an order dated 07/03/2025 as under :

*"I heard both the parties. I am of the opinion that the information available with this authority was provided by the Respondent PIO within the time limit. The matter regarding the issue related to the concerned case is before the Lokayukta. Hence the documents related to the same are not available in this office records. Therefore the information cannot be provided by this Authority. No order as to costs".*

5. Being aggrieved by the FAA's order Appellant preferred Second appeal dated 20/05/2025 before the Commission stating that the First Appellate Court failed to realize that Respondent PIO deliberately denied the information sought which is available in electronic/printed format. Appellant prayed before the Commission to direct the Respondent PIO to furnish information sought under Point No. 1 and 2.

**FACTS EMERGING IN COURSE OF HEARING**

6. Pursuant to the present appeal filed by the Appellant, parties were notified fixing the matter for hearing on 19/06/2025 for which Appellant present but Respondent absent. Adv. Vallari D. Kuchadkar holding for FAA present and filed Wakalatnama. Matter fixed for reply of Respondent PIO on 02/07/2025.

7. When matter called for hearing on 02/07/2025, Appellant present and Respondent PIO appeared along with Adv. Meghana Kamat. Adv. Misha Santoria present for FAA.

Respondent No.1 (PIO) filed written reply to the Appeal memo stating that -

i. Respondent No.1 in his reply dated 14/01/2025 has clearly stated that the information sought at SerialNo.1 and 2 cannot be issued as per Section 8 (1) (e) of the RTI Act 2005 and at Serial No.3 is not available in the office records. Respondent No.1 states that the Appellant in his present appeal has misrepresented before the Authority that the PIO has invoked Sub Section (4) and (5) of Section 5 of the Act.

Respondent No.1 reiterated in the written reply that -

a. The information sought at Serial No. 1 and 2 cannot be furnished as the information protected u/s. 8 (1) (e) of the RTI Act, 2005.

b. Information sought at Serial No.3 is vague and does not fall within the purview of information and cannot be sought as a right under RTI Act.

8. Respondent No.2 (FAA) in the written reply dated 01/07/2025 submitted that both the parties were heard and the order was passed on merits and after considering the provisions of the RTI Act, 2005. Matter fixed for further hearing on 17/07/2025.

9. On 17/07/2025, Appellant present and Respondent PIO present along with lawyer Adv. Meghana Kamat. Respondent PIO's lawyer filed

written arguments dated 17/07/2025 on behalf of the Respondent No.1 (PIO) supported by citation of few decided cases to substantiate the denial information in respect of Point No.1 and 2 of RTI application to the Appellant u/s. 8 (1) (e) of the RTI Act, 2005 and emphasised that exemption from disclosure is allowed if information available to a person in his fiduciary relationship unless the competent authority is satisfied that larger public interest warrants disclosure of such information.

*Lawyer for Respondent PIO cited the following decided cases :*

- i. *Union of India & Anr. V/s Subhash Chandra Agarwal W.P.(C) 4288/2012 dated 20/12/2023 in Hon'ble Delhi High Court.*
- ii. *J. S. Kohli V/s Telecom Regulatory Authority of India PCIC, Appeal No.41, ICPB/2006 dated 30/06/2006 in which the CIC held that "When a counsel is engaged, the doctrine of professional privilege comes into existence automatically creating a fiduciary relationship between the client and the advocate".*
- iii. *Shri Pavan Sachdeva V/s CBI, Appeal No.CIC/WB/A/2009/000495 dated 23/07/2010 in which the CIC held that "Legal opinion is always opinion provided by a lawyer to a client in fiduciary capacity".*
- iv. *Shri. JBS Bedi V/s Central PIO, Punjab and Sind Bank, Appeal No.CIC/SH/A/2015/001739 dated 02/02/2017* wherein the CIC held that "*the relationship between a counsel and his client to be fiduciary and the exchanges between the two have been held to be confidential except under very rare circumstances*".
- v. In the matter of *Shri Indrajit Singh Suri V/s Central PIO, Dena Bank*, the CIC held that "legal opinion copies which have been sought by the Appellant is exempted from disclosure under Section 8(1) (e) of the RTI Act, 2005 because of the fiduciary relationship between the Bank and its lawyers.
- vi. *Shri Jai Shankar Kumar V/s Central PIO, Allahabad Bank, Appeal No.CIC/SH/A/2016/000107 dated 20/01/2017.*

10. Matter took up for hearing on 18/08/2025 for which Appellant present and Respondent PIO along with lawyer present.

Appellant filed written supplementary arguments dated 18/08/2025 stating that :

- a) Legal opinion obtained by public authorities in routine official capacity are not exempted u/s. 8(1) (e), of the RTI Act, 2005 unless they involve a third party's confidential interest.
- b) Where a citizen is directly affected by the legal opinion, denial of access amounts to denial of transparency and natural justice.
- c) Section 8 (2) also mandates that even if information falls under an exemption, it should be disclosed if public interest in disclosure outweighs the harm to the protected interest.

In support of his argument seeking information in respect of Point No.1 and 2, Appellant in his written arguments cited following decided matters :

- i. ***Hon'ble Supreme Court in CBSE V/s Aditya Bandopadhyay (2011)*** held that loyal opinion obtained by public authorities as part of administrative process do not enjoy blanket exemption.
- ii. ***K.K Srivastava V/s M.H.A legal opinion is not covered under Section 8 (1) (e)*** when it is taken in official capacity and does not involve 3<sup>rd</sup> party confidentialities.
- iii. In the case of ***Rakesh Kumar Gupta V/s Income Tax Department (CIC/AT/A/2007)*** held that "*legal opinion that forms part of the decision making process of a public authority should be disclosed especially when it affects the rights or interest of the applicant*".

11. When the matter called out for hearing on 15/09/2025, Appellant present and Respondent No.1 (PIO) appeared along with lawyer. Respondent No. 1 filed an additional written argument dated 15/09/2025 highlighting that legal opinion is exempted u/s. 8(1) (e) of the RTI Act.

12. Respondent PIO's lawyer argued that any information shared with the lawyer and received from that lawyer remains confidential under doctrine of legal professional privilege thereby automatically creating fiduciary relationship between the client and the advocate and therefore exempted from disclosure to the public. Lawyer added that information sought at Serial No.1 and 2 cannot be furnished as the same is exempted from disclosure u/s. 8(1) (e) of the RTI Act, 2005 and the Appellant has not proved any larger public interest warranting the disclosure of the said information which is the only exception to the rule.

Appellant also submitted his Additional Supplementary written arguments dated 15/09/2025 citing certain orders passed by the Hon'ble Supreme Court and Central Information Commission in support of his RTI requirement (legal opinion).

Appellant further cited the matter of ***Shri. Amarjit Singh V/s State Bank of India, CIC/SM/A/2009/001904AT*** in which it is held that *"the legal opinion given by an officer of the public authority does not stand on the same footing as the advice/opinion tendered to the public authority by an Advocate or the Counsel. Section 8 (1) (e) therefore cannot cover the former.*

*Section 8(1) (e) is available only to the advice received by a client from an Advocate or the Counsel and not the opinion of one of its officers even if such an opinion is a legal advice. There is a material difference between the former and the latter".*

13. Matter took up on 24/09/2025 for final argument, if any, and order for which Respondent PIO's counsel present but Appellant absent. Respondent PIO's counsel reiterated that information sought by the Appellant at Point No.1 and 2 of the application dated 18/12/2024 cannot be furnished as the same is exempted u/s 8(1) (e) of the RTI Act.

## **DECISION**

Taking into account of the above said facts and circumstances, submission as well as arguments placed before the Commission by the parties to the Appeal and perusal of materials available before it, Commission has come to the conclusion that :

- i. Information sought by the appellant at Point No.1 of the RTI application found to be confidential.**
- ii. Information sought by the Appellant at Point No.2 of the RTI application found to be fiduciary in nature.**

Therefore, the Respondent No.1 rightly denied the information invoking Section 8(1) (e) of the RTI Act, 2005.

**Hence, present appeal stands dismissed as it lacks valid ground to direct the Respondent PIO to furnish the information sought by the Appellant, who failed to establish any larger public interest for the disclosure of the information, which is denied by the Respondent PIO by invoking Section 8(1) (e) of the RTI Act, 2005.**

- 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

