

GOA STATE INFORMATION COMMISSION

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Appeal No. 21/2023/SCIC

Mrs. Shlesha Shailesh Naik,
R/o. H. No. 249/A-1,
Naikwada, Pirna,
Bardez – Goa, 403513.

..... Appellant

v/s.

1) The First Appellate Authority,
Superintendent of Police (Traffic),
Traffic Headquarters, Altinho,
Panaji – Goa.

2) Shri Budhaji Y. Dessai,
H. No. 249, Naikwada,
Pirna, Bardez Goa.

3) The Public Information Officer,
Dy. Superintendent of Police, Traffic, North
Traffic Headquarters, Altinho,
Panaji – Goa.

.... Respondents

Relevant Facts Emerging from the Appeal

RTI application filed on	- 13-10-2022
PIO replied on	- 27-10-2022
First Appeal filed on	- 16-12-2022
First Appellate order on	- 06-01-2023
Second appeal received on	- 18-01-2023
Decision of the Second Appeal on	- 10-01-2025

Information sought and Background of the Appeal

1. Shri. Budhaji Y. Desai filed on RTI application dated 13/10/2022 to the PIO (Dy. SP, Traffic North Altinho, Panaji) seeking certified copy of shift details and timing of duty hours/work by Mrs. Shlesha Naik, LPC-6789 working at Bicholim Traffic Cell for the month of January 2021 to September 2022.
2. In response to the RTI application dated 13/10/2022 of Shri. Budhaji Y. Desai, PIO (Shri. Prabodh B. Shirwaiker, Dy. S.P. Traffic, North Goa) vide letter dated 27/10/2022 replied that the information sought pertains to Third Party. As the Third Party has objected to provide the said information, your request is rejected under Section 8 (1) (g) & (j) of RTI Act, 2005.

3. Perusal of records submitted by the Appellant of second appeal, Mrs. Shelsha S. Naik, reveals that Shri. Gouresh G. Malik, Police Inspector, Traffic Cell, Bicholim, North Goa District vide notice dated 25/10/2022 informed Mrs. Shelsha S. Naik that one Budhaji Y. Desai under RTI Act has sought certified copies of shift details, timings, duty hours, work performed by her for the period January 2021 to September 2022 and she was asked to submit her say, if any, within 10 days against the disclosure of information.
4. In reply to the notice dated 25/10/2022, Mrs. Shelsha Naik, LPC-6789 informed Police Inspector/Traffic, Bicholim (APIO) her objection to provide information related to her work profile, duty hours, duty timing and other personal information to any person as the same could endanger her life and safety. She has also brought attention to the application dated 25/10/2022 submitted to the Police Inspector, Traffic Cell, Bicholim requesting not to provide information related to her work profile, duty timings, other personal details etc. to any persons without her consent.
5. In the said application dated 25/10/2022, Mrs. Shelsha Naik, LPC-6789 stated that Shri. Budhaji Y. Desai and his two sons, Sagar Desai and Rupesh Desai, are continuously harassing and pressurising her and family demanding motorable access to their property towards Shelsha's property. She further stated that Budhaji Y. Desai and his close friend as well RTI activist have sought information on her duty timing/duty shift and personal information under RTI Act, 2005. She added that since she and her family did not accept Budhaji's demand (property for motorable access to his property) Budhaji and his sons are threatening with dire consequences.
6. Appellant Shelsha further stated in the letter that she and her husband have filed complaint against Budhaji and his two sons at Bicholim Police station for threatening and harassing. Moreover, a Regular Civil Suit over access to Budhaji's property through Shelsha's family property is subjudice before the Bicholim Civil Court and despite this fact, Budhaji and his sons are

continuously pressurising and threatening her to accept their demand of motorable access by filing false police complaints.

7. According to Shlesha, the appellant of second appeal, Budhaji and sons are encroaching into the privacy of her family by purposely focussing CCTV cameras into her residence especially towards bedrooms and bathrooms and constantly keeping watch on her with all intentions. Shlesha added that she has been getting threat from Budhaji's close friend Ramesh Naik, against whom she lodged a complaint at Colvale Police station for abusing her with filthy language and passing vulgar comments while passing around her house. Since she has to travel in the early morning and night on two wheeler in connection with her duty, she has apprehension over threat to her personal safety and security from Budhaji, his sons and his friend Ramesh due to the Civil Suit, which is subjudice to Bicholim Civil Court. Considering the safety of her and her family, Shlesha in this letter, had requested the Inspector, Traffic Cell, Bicholim not to provide any information pertaining to her duty, duty timing and other personal information to any person without her consent.
8. Aggrieved by the reply dated 27/10/2022, RTI applicant Shri. Budhaji Y. Dessai filed first appeal dated 16/12/2022 before the First Appellate Authority (FAA/ S.P Traffic) under section 19 r/w 20 of the RTI Act 2005 with the following prayers :
 - a) The delay of 18 days in filing the present appeal be condoned and the appeal be taken up for hearing.
 - b) After examining the legality, the propriety and the in action on the part of the Respondent PIO, the present appeal be allowed thereby directing the Respondent to furnish the requisite information within the time stipulated under the RTI Act.
 - c) Order penalty under the provisions of the Right to Information Act, 2005 on the Respondent for deliberately and wilfully not furnishing the information sought for and for acting in contravention of the Right to Information Act, 2005.

9. Appellant, Budhaji Y. Dessai in his first appeal submitted that there is a delay of 18 days in filing the present appeal which may kindly be condoned and their present matter be taken up and accordingly decided (Para 9 in first appeal dated 16/12/2022)
10. Appellant further submits (Para 13) that great prejudice shall be caused to the Appellant in case the delay of 18 days in filing the present appeal is not condoned.
11. Appellant Budhaji Y. Dessai in his first appeal dated 16/12/2022 submitted (Para 12) that he vide RTI application dated 12/09/2022 sought certified copies of Attendance roll/attendance sheet of Reshma Padelkar / Naik (also known as Shelsha Naik) and PIO vide letter dated 04/10/2022 furnished requested information to the Appellant for the period January 2021 to September 2022 and Appellant further submitted that he has seen the said Shelsha Naik most of the time at her residence on the days even when she has signed attendance roll and Appellant has CCTV footage of her presence at her residence.
12. Pursuant to the first appeal dated 16/12/2022, FAA (Shri. Bossuet Silva, S.P, Traffic) heard Appellant Budhaji Y. Dessai along with his pleader, PIO (Shri. Sidhant Shirodkar, Dy. S.P/ Traffic North) and APIO (Shri. Gaurish Malik, PI/Traffic Cell Bicholim) on 06/01/2023. During the course of hearing, pleader for the Appellant argued that the required information does not come under the purview of section 8, 9 and 11 of RTI Act 2005 and not covered under the confidentiality clause. FAA vide order dated 09/01/2023 directed the PIO (Dy. SP, Traffic North Goa) to provide the copies of duty charts of Traffic Cell, Bicholim for the period from January 01, 2021 to September 30, 2022 after payment of the requisite fees. FAA's order is totally silent on allowing condonation of delay in filing the first appeal and the opportunity granted to the Third party, whose information is sought by the Appellant, in the hearing on first appeal or asked for Third Party's consent especially when the parties to the appeal are parties in a property related Civil Suit pending in the Court.

13. Aggrieved by the order dated 06/01/2023 of the FAA, Mrs. Shelsha Shailesh Naik, third party in the RTI application, approached Commission with an appeal dated 18/01/2023 u/s 19(3) and (4) of the RTI Act 2005. Appellant Shelsha Naik in her appeal challenging the FAA's order dated 09/01/2023 directing the PIO to furnish copies of the duty chart of the Traffic Cell, Bicholim, where the Appellant Shelsha Naik, LPC - 6789 is attached for duty, for the period from 1st January 2021 to 30th September 2022, submitted that the First Appeal filed by Shri. Budhaji Y. Dessai, Respondent No.2 in this appeal, is not within the stipulated time but was filed on 16/12/2022 after delay of 18 days.
14. Appellant Shelsha S. Naik further submitted that the information sought in the first appeal pertains to the personal information of her though same has been sought under garb of public information and vide letter dated 25/10/2022 to the PIO/APIO, she has objected to furnishing her personal information to the RTI applicant, who has filed RTI application with oblige motive. She pointed out that in RTI applicant Budhaji Y. Dessai's first appeal before the First Appellate Authority, she was not made party though it was necessary as the information sought vide application of the Respondent No. 2 (RTI applicant) pertains directly to the Appellant and her duty hours/timing and Respondent No. 2 mentioned that he want to confront the same with the video recorded on her by Respondent No. 2 clandestinely and without knowledge of her.
15. Appellant Shelsha submitted that Respondent No. 2, earlier vide letter dated 12/09/2022 under RTI Act 2005 made to the APIO, Traffic Cell, Bicholim had availed attendance sheet/attendance roll of Reshma Padelkar/Naik @ Shlesha Naik attaching her manipulated photograph, which itself is illegal and criminal act, punishable under law. Appellant added that with the sole aim to harass and make her feel pressurized and uncomfortable, Respondent 2 further sought information about her duty timings in addition to his criminal acts like stalking, monitoring activities and recording her personal movements without authority and her consent in order to pressurize and

threatening her and family in getting his illegal demand of access through the private property of Appellant is accepted. In her appeal before the commission, Appellant Shelsha prayed that -

1. *Ex-parte order be passed staying the order dated 09/01/2023 passed by the FAA in First Appeal No.02/2023 till disposal of present appeal.*
2. *The present appeal be allowed thereby setting aside the order dated 09/01/2023 passed by FAA*
3. *Other relief to the Appellant*

16. In order to strengthen her argument for not to provide information about her shift timings and timing of the duty hours/ working hours which relates to her personal information. Appellant cited judgements passed by the Hon'ble Supreme Court and High Courts in the following matters :

- i. *Hon'ble Supreme Court of India in Girish Ramchandra Deshpande V/s. Central Information Commission and other SLP CC No.2TT34 of 2012*
- ii. *Hon'ble High Court of Delhi in Dr. R.S. Gupte V/s. Govt. of NCTD and others : LPA. No.207/2020*
- iii. *Hon'ble High Court of Punjab and Haryana in Dr. Jagrati Sharma V/s. State Information Commissioner, Haryana and others LPA No.145 of 2020.*

17. In his written reply dated 13/12/2023, Respondent No. 1 (FAA/ S.P. Traffic) submitted that after having perused the contents of the First appeal, reply filed by the PIO, documents produced by both the parties and having heard the arguments canvassed by both the parties, the FAA passed order dated 09/01/2023 directing the PIO to provide the copies of duty chart of Traffic Cell, Bicholim for the period from 01/01/2021 to 30/09/2022 after payment of requisite fees.

18. Respondent No.1 further submitted that FAA being a quasi-judicial public authority under the provisions of the RTI Act, 2005 and citing *R. Vijaylakshmi V/s. Customs (Export, Raigad* stated that he cannot be called upon to explain how he arrived at the decision of directing the PIO to

provide the copies of duty charts of Traffic Cell, Bicholim for the period of 01/01/2021 to 30/09/2022.

19. Respondent No.3 (PIO) in his written reply dated 06/10/2023 submitted that PIO has no malafide intention in refusing to supply information sought by the RTI applicant Shri. Budhaji Y. Dessai but refused to supply this information as the same was pertaining to the Third Party, who had objected to provide the said information to the RTI Applicant, who has not shown involvement of any larger public interest in supplying the information to the RTI applicant (Respondent No. 2 in this appeal) According to Respondent No. 3, no relief has been sought by the Appellant in the second appeal against the Respondent No. 3 and thus Respondent No. 3 is a formal party to the present proceedings before the Commission.
20. The matter was not heard by the Commission from March 2024 to September 2024 as the post of SCIC and SIC remained vacant.
21. The SCIC took up the matter for hearing on 22/10/2024 for which Appellant Shelsha S. Naik appeared in person, Shri. Ramesh N, Head Constable appeared on behalf of Respondent No. 1 and Respondent No. 3 but Respondent No. 2 or his authorised representative not attended the proceedings on that day. On 21/11/2024 hearing, Appellant was present in person, Adv. Kishore Bhagat appeared on behalf of Respondent No. 3 (PIO) and Respondent No. 2 was represented by his son Shri. Sagar Dessai. Commission directed Respondent 2 to file submission if any, before December 10, 2024 fixing next hearing on 10/01/2025.
22. Respondent No. 2 (RTI Applicant) in his written submission dated 06/12/2024 stated that vide application dated 12/09/2022 under RTI Act, to the Police Inspector, Traffic Cell, Bicholim he had sought certified copy of Attendance sheet/ Attendance roll of Reshma Padlekar/Naik also known as Shelsha Naik, who is working in said department and the PIO vide letter dated 04/10/2022 furnished required information. Further, in furtherance of the said information, he sought information with respect to the timing of shift duty and duty hours of said Shelsha Naik for the month of January 2021 to September 2022 as Respondent 2 seen said

Shelsha Naik most of the time at her residence, even on the days she has signed the attendance roll and Respondent 2 has CCTV footage saved by him (about her presence at residence). Submission further states that FAA has given clear instruction to the PIO (Respondent No. 3) to furnish information sought by the RTI applicant (Respondent 2 in this second appeal)

23. During the final hearing today i.e. 10/01/2025, Appellant Shelsha S. Naik prayed the Commission to set aside the order issued by the FAA without giving her an opportunity to place her say in the first appeal filed by RTI applicant Budhaji. Y. Dessai (Respondent 2 in this appeal) and to issue direction to the PIO not to provide information which is her personal information. Authorized representative of Respondent 2, however, prayed the Commission to direct the PIO to comply with the order issued by the FAA.

COMMISSION'S OBSERVATIONS

- i. The RTI application filed by Shri. Budhaji Y. Dessai seeking shift timings, duty timing and duty hours of his neighbor Mrs. Shelsha Naik, LPC- 6789 of Traffic Cell, Bicholim North Goa primarily emerged from the property related Civil Suit pending before the Bicholim Civil Court.
- ii. The PIO rightly denied the information sought for by the RTI applicant being the personal information of Mrs. Shelsha S. Naik, who has objected to provide her personal information to the RTI applicant, who is involved in legal wrangling with Shlesha Naik and family over the demand of motorable access to his property through personal property of Mrs. Shelsha S. Naik/family.
- iii. The first and prime prayer of the RTI applicant in his first appeal dated 16/12/2022 is that delay of 18 days in filing the first appeal be condoned and submitted that great prejudice be caused to the Appellant (of first appeal) in case the delay of 18 days in filing the present appeal is not condoned and the present appeal is not allowed.
- iv. FAA's order is totally silent on Appellant's prayer that delay of 18 days in filling the first appeal be condoned and that great prejudice be caused to the Appellant in case the delay of 18 days in filing the first appeal is not condoned.

- v. Until and Unless the delay of 18 days in filing first appeal is not condoned and it was not duly reflected in the FAA's order, the first appeal can be treated as not maintainable and valid and the order issued by the FAA in such an appeal is amounted to null and void.
- vi. Despite knowing that this RTI applicant sought information pertains to third party, such third party was not heard nor her consent was called for being a principle of natural justice.
- vii. The RTI Applicant & Appellant of first appeal sought duty hours, shift timing etc. of Mrs. Shlesha S. Naik only but the FAA vide order dated 09/01/2023 directed the PIO to furnish the duty chart of entire Traffic Cell of Bicholim.
- viii. Since the families of RTI applicant, Shri. Budhaji Y. Dessai and Appellant of second appeal Mrs. Shlesha S. Naik are engaged in a legal wrangling over the issue of motorable access, Mrs. Shlesha S. Naik has apprehension over her personal safety and security especially while travelling to the duty place and returning to residence by two wheeler in the early morning and late evening.
- ix. RTI applicant Budhaji Y. Dessai vide application dated 12/09/2022, had sought certified copy of Attendance sheet/Attendance roll of Mrs. Reshma Padlekar/Naik from the P.I Traffic Cell Bicholim Goa for the period January 2021 till date and PIO vide letter dated 04/10/2012 furnished information of 20 pages of 12 Traffic Cell Police Constables which doesn't have the name of Mrs. Reshma Padlekar/Naik mentioned by the RTI applicant in his application. If that name do not reflect in the Attendance sheet of Bicholim Traffic cell, why PIO issued 20-page Attendance Sheet (January 2021 – August 2022) of other Traffic police personnel, whose information was not sought by RTI applicant.
- x. Certified copy of the photograph of Mrs. Shlesha S. Naik (Appellant of second appeal) was found issued by the PIO (Dy. S.P/Traffic North - Goa)
- xi. Appellant Shlesha S. Naik in her submission and application dated 25/10/2022 to the Police Inspector, Traffic Cell, Bicholim mentioned that her neighbour and RTI applicant Budhaji. Y. Dessai and his two sons are harassing and threatening her family and also recording their movement/activities by focussing CCTV camera to the bedroom in both rooms of her residence. This allegation is substantiated by the

RTI applicant himself by mentioning in Para 12 of his first appeal dated 16/12/2022 and submission dated 06/12/2024 filed before the Commission to the effect that *“Appellant sought information with respect to the shift timing and timing of the duty hours of Mrs. Shlesha Naik for the month of January 2021 to September 2022, as I have seen said Shlesha S. Naik most of the time at her residence even on the day she has signed the muster roll and the Appellant has CCTV footage saved with him”*.

- xii. Since the RTI applicant Budhaji Y. Dessai committed invasion into the privacy of Mrs. Shlesha S. Naik by way of recording her movement/ activities at her residence without her consent and knowledge, Mrs. Shlesha is at liberty to take the issue of invasion into her privacy by RTI applicant at appropriate legal forum.
- xiii. RTI applicant Budhaji has already obtained Attendance sheet in respect of Mrs. Shlesha S. Naik by applying for the Attendance sheet of Mrs. Reshma Padlekar/Naik for the period January 2021- September 2022 and the PIO promptly furnished the same of 12 Police Constables attached to Bicholim Traffic Cell even though the list doesn't have the name of Reshma.
- xiv. FAA has committed procedural lapse while allowing and deciding the first appeal.

DECISION

- 1. Based on the above mentioned facts, circumstances and submissions as well as arguments of the parties to the second appeal, Commission decided to set aside the FAA's order dated 09/01/2023 directing the PIO to furnish duty chart of Traffic Cell, Bicholim to the RTI applicant Shri. Budhaji. Y. Dessai (Respondent 2 in the present appeal)**
- 2. Commission further directed the PIO not to divulge information pertaining to the duty hours, shift timings etc. of Mrs. Shlesha S. Naik, LPC-6789, Appellant in the present appeal, as it is her personal information and also reasonable ground to believe her apprehension that furnishing such information will have a serious bearing on her personal safety and security especially when the RTI applicant and her neighbour is involved in a legal wrangling**

over motorable access through the property of Appellant in the present appeal.

3. Moreover, information sought by the RTI applicant (Respondent 2 in this appeal) is third party information and he had failed to show involvement of any other Public interest in seeking information pertaining to the Appellant in this appeal. Perusal of records and facts and circumstances clearly establish that information sought by the RTI applicant in respect of Mrs. Shlesha S. Naik is aimed to harass her and to settle score with her over the dispute on motorable access to the property of RTI applicant through the property of Appellant in this present appeal.

- Appeal No. 21/2024/SCIC stands disposed.
- Proceedings closed.
- Notify the parties.

Sd/-

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