

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

**CORAM:** Shri. M. S. Keny, State Chief Information Commissioner

**Appeal No.206/SCIC/2011**

Shri Harish alias Rajiv Narayan Naik,  
R/o.H. No.252, Cardoz Waddo,  
Taleigao - Goa

... Appellant.

V/s.

1. The Public Information Officer,  
Office of the Deputy Collector & S.D.O.  
Mapusa – Goa
2. The First Appellate Authority,  
And Addl. Collector I,,  
North Goa,  
Collectorate of North Goa,  
Panaji – Goa

... Respondents

Appellant in person

Respondent No.1 and 2 absent.

**J U D G M E N T**  
**(03/01/2012)**

1. The Appellant, Shri Harish alias Naraina Naik, has filed the present appeal praying that the Hon'ble Authority be pleased to direct the respondents to provide the information sought for by the appellant vide his application dated 23/5/2011.

2. The brief facts leading to the present Appeal are as under:-  
That the appellant, vide an application dated 23/5/2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer(P.I.O.)/respondent No.1. That the said application was rejected and hence the appellant filed First Appeal dated 21/6/2011 before First Appellate Authority(F.A.A.)/respondent No.2. That the respondent No.2 rejected the appeal vide order dated 5/9/2011. Being aggrieved by the said order the appellant

has filed the present appeal on various grounds as set out in the memo of appeal.

3. In pursuance of the notice issued, Shri Pratap Gaonkar, representative of the respondent No.1 appeared. Respondent did not file any reply nor advanced arguments. In any case I am proceeding on the basis of records.

4. Heard the arguments. The appellant argued in person. He referred to the facts of the case in detail such as review application against the decision of Dy. Collector and S.D.O. Mapusa about 10 citations referred and which were ignored by the revisional authority. He also submitted that citation of Apex Court were filed. He referred to Sec.4(d)(i) of R.T.I. Act about quasi judicial authority. He also submitted about transparency etc. and also about quasi-judicial authority and also relied on some decisions of Supreme Court.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the appellant. The point that arises for my consideration is whether the relief prayed is to be granted or not.

It is seen that by application dated 23/5/2011, the appellant sought certain information. The application information pertained to the reasoning given in Tenancy Review Application No.2/2010 in judgement dated 12/5/2011. By reply dated 14/6/2011 the P.I.O. informed about corrigendum being issued in respect of point No.1 regarding other points i.e.(ii), (iii) to (xi) it was informed that the information sought is not covered under definition of information under R.T.I. Act and also in respect of Judgement and Order dated 3/4/2008 passed by Hon'ble High Court in W.P. No.419 of 2007 of Mrs. Celsa Pinto. The application was disposed off. Being not satisfied the appellant preferred an appeal before the F.A.A. on 21/6/2011. However by order dated 5/9/2011 the appeal was dismissed.

6. It would not be out of place to mention here about the definition of information. Under Sec.2(f) “Information” means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a Public Authority under any other law for the time being in force. In an old case (AIR 1957 Punjab 226) the Punjab High Court explained “information” as synonymous with knowledge or awareness in contradistinction to apprehension, suspension or misgiving.

Section 2(i) “record” includes –

- (a) any document, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document
- (c) any reproduction of image or images embodied in such a microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;

It is to be noted here that the term “record” for the purpose has been defined widely to include any documents manuscript, file etc. Under Clause 2(j) “the Right to Information” means the right to information accessible under this Act which is held by or under control of any public authority and powers under the Act include the right to

- (a) inspect works, documents, records of any Public Authority;
- (b) take notes, extracts or certified copies take certified samples of material and
- (c) of documents or records
- (d) obtain information of printouts, diskette, folders, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.

A combine reading of Sec 2(f), 2(i) and 2 (j) of the R.T.I. Act would show that a citizen is entitled for disclosure of information which is in material form with a public authority and “information” and the right to seek do not include opinions, explanations etc.

7. The appellant is seeking information in respect of reasoning given in Tenancy Review Application No.2/2010 in judgement dated 12/5/2011. The queries are (i) to (xi) and the same start as “why complete cause title is not mentioned ..... Why there was delay in disposal of review petition ..... and what is the reasoning ..... etc.” The point that is to be considered is whether such a request can be granted. Appellant also refers to Sec.4(1)(d) of R.T.I. Act which is as under :-

“4. Obligations of Public authorities

1. Every public authority shall

(a) .....

(b) .....

(c) .....

(d) provide reasons for its administrative or quasi judicial decisions to affected persons

8. It is pertinent to note here that Sec.2(j) provides only information held by or under the control of any public authority. It does not mean that an information seeker can solicit opinion from P.I.O. of a public authority. The rule of law now crystallized by the various rulings of Central Information Commission as well as State Information Commission is that information held is to be provided and Commission’s jurisdiction can go no further than only directing that information in the form held be provided. It is further pertinent to note that Public Information Officer is not required to collect, compile or create information for the information seeker but he is expected to provide the information available in the material form.

I have perused some of the rulings on the point :-

(i) In K. Anand Kini V/s. Canara Bank (as decided by C.I.C. on 10/5/2007) it is held that no queries like why, what, how, etc can be answered by a Public Authority. In the guise of information seeking explanations and queries about nature and quality of action of Public Authority need not be raised for answer. Again it is held that RTI does not cast on the Public Authority any obligation to answer queries in which attempt is made to elicit answers to questions with prefixes such as why, what, when and whether.

(ii) In Shri Vibhor Dileep Baria V/s Central Excise and Custom Nashik (Appeal No.CIC/AT/A/2006/00588 dated 30/11/2006) it is observed in para 11 and 14 as under:-

“11. Right to Information Act confers on all citizens a right to access information and this right has been defined under section 2(j) of the said Act. An analysis of this section would make it clear that the right relates to information that is held or under the control of any public authority. If the Public Authority does not hold information or the information cannot be accessed by it or under section 2(f) or if the information is non-exist, the Public Authority cannot provide the same under the Act. The act does not make it obligatory on the part of the Public Authority to create information for the purpose of its dissemination”

“14. Thus information would mean any material in existence and apparently it cannot mean and include something that is not in existence or to be created. An “opinion” or an “advice” if it is a part of the record is “information” but one cannot seek from a PIO either an “opinion” or an ‘advice” as seeking such opinion or advice would be in effect seeking a decision which the C.P.I.O may not be competent or authorized to take. Similarly, the

existing report is information but preparing a report after an enquiry cannot be treated as available information. Likewise the data maintained in any electronic form is “information” and the whole of such data or a part thereof can be made available to an applicant by a Public Authority under R.T.I. Act. But making an analysis or data so collected cannot be expected to be done by the C.P.I.O. under RTI Act. On the same analogy, answering a question, preferring advice or making suggestions to an applicant is clearly beyond the purview of the Right to Information Act.”

(iii) In Major (Retd) P.G. Deval V/s. Central Excise & Custom Department (Decision No.F. No.CIC/AT/A/2008/00424 dated 28/7/2008) it was held that R.T.I. Act cannot be invoked to demand and obtain from Public Authorities explanations, reasons, justifications and so on in respect of decision made. It was also observed as under :-

“The appellant is way off the mark when he says that the concept of transparency enjoins every public authority to keep providing explanations to parties in respect of decisions they have made. These orders especially quasi-judicial orders, are themselves appealable under other Act. All aspect of such decisions are closely scrutinized in the process of appeals and if these are found to be deficient the appellant is given the benefit. R.T.I. Act cannot be used as an instrument of supervision over the functioning of other public authorities and surely cannot be an instrument that converts the Central Information Commission into a Court of final appeal over all such public authorities. The procedures extent in the respective rules governing the functioning of public authorities need to be respected.”

(iv) In S.P. Goyal V/s. Income Tax Department, Mumbai (Case No.CIC/AT/A/2007/01326 dt.16/7/2008). The gist of the order is as under :-

“It is observed that the appellant has asked C.P.I.O. to provide reasons as to why the appeal U/sec.143(3) of Income Tax Act, 1961 was decided by the Commissioner of Income Tax (Appeal)-quasi-judicial – in a particular way and why certain matters were apparently not considered while deciding the appeal. Under R.T.I. Act, C.P.I.O. is not supposed to interpret or tender his opinion/clarification in relation to order/decision passed by a quasi-judicial authority.

(v) In R. K. Sarkar V/s. Income Tax Department (F.No.CIC/AT/A/2007/D1553 dated 23/6/2008) the appellant wanted to know the reasons for delay of more than eight months for disposal of Disciplinary proceedings. The Commission held that this is a query about reason which need not be provided as it fails to qualify to be information U/sec 2(f)

(vi) In Ashwani Kumar V/s. Department of Agriculture and Co-operation (F. No.CIC/AT/A/2008/00020, dated 9/6/2008) appellant sought to know as to why certain High Court orders had not been implemented. The Commission held that the queries do not qualify the test of Sec.2(f) of the R.T.I. Act as these are in the nature of seeking explanations and reasons from the respondents – these are legal avenues available to execution of the Court order.

(vii) In Celsa Pinto V/s. Goa State Information Commission, (Writ Pet. No.419/2007 decided on 3-4-2008) the High Court of Bombay (Panaji-Goa Bench) defined the term “Information” as under : “The definition of information ‘cannot include answers to the question ‘why’ as that would be asking for a justification. The public information authorities cannot be expected to communicate to the citizen the reason why a certain thing was done or not done in the sense of justification because the citizen makes a requisition for information. Justifications are a matter within the domain of adjudicating authorities and cannot properly be classified as information.”

From all the above it is seen that the right to receive information from the public authority does not extend ordering public authority to give explanations, reasons for its specific actions and its conduct. No doubt such queries are outside the scope of Sec.2(f) of the R.T.I. Act.

I have perused the ruling relied by the appellant, xerox copy of which is on record. There is no dispute regarding the same. However the issue in the present appeal is on a different footing.

9. I have referred above sec.4(1)(d). As per the same every public authority shall give “reasons” for all its “administrative” or “quasi-judicial” decisions to affected persons as provided under clause (d) of sub-Section 4 of the Act. Therefore a reasoned order is necessary under the provisions of the Act.

Sec.4 of the R.T.I. Act enumerates the various obligations of the public authorities under the R.T.I. – regime for proper maintenance and easy dissemination of information. Sub Sec.4(1) (d) is to be seen in this context and not as a commandment that public authorities are bound to give reasons etc of the orders of the quasi-judicial matters. The right of a citizen to get information from a public authority is conditioned by Sec.2(f) subject to the exemptions as specified in the R.T.I. Act. It would be rather difficult for a P.I.O. of any public authority to give reasons for quasi-judicial decision taken by them. Even otherwise request for seeking reasons for a decision or for not considering certain decisions or arguments in a particular case cannot be regarded as existing information as defined U/sec 2(f) of the R.T.I. Act. Consequently there can be no obligation to provide the same which is non-est.



10. In Khanapuram Gandaiah V/s. Administrative Officer & others (S.L.P No.34868/09 decided on 4/1/2010) in which the Hon'ble Supreme Court has dealt in detail on the question of the reasons as to how and for what reasons an order of a judge has been decided in a particular manner. It was observed :-

“6. Under the R.T.I. Act “information” is defined under section 2(f) which provides :

“Information” means any material in any form, including records, documents, E-mails, opinions, advices, press releases, circulars, orders, log-books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

This definition shows that an applicant under sec.6 of the R.T.I. Act can get any information which is already in existence and accessible to the public authority under law. Of course under the R.T.I. Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc but he cannot ask for any information as to why such opinions, advices, circulars, orders have been passed, especially in matters pertaining to judicial decisions. A judge speaks through his judgements or orders passed by him. If any party feels aggrieved by the order/judgement passed by a judge the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the judge had come to a particular decision or conclusion. A judge is not bound to explain later on for what reasons he had come to such a conclusion.”

The above observations/reasoning will, certainly apply mutatis mutandis to the appeal before me.

11. I have perused the application. From the same the appellant seems to have genuine grievance. However the appellant has to agitate the same before the concerned authority/Forum. This Commission is not the proper forum to redress the appellant's grievance.

12. In view of all the above, I do not find any infirmity in the order of the F.A.A. Consequently appeal fails. Hence I pass the following order.

**ORDER**

The appeal is hereby dismissed.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 3<sup>rd</sup> day of January, 2012.

**Sd/-**  
**(M. S. Keny)**  
State Chief Information Commissioner

