

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No. 135/SCIC/2011**

Mrs. Cynthia Azavedo,  
C/o. Ms. Flavia Fernandes,  
Flat G-6, Bulding SR-II,  
Navelkar Hill City, Sao Pedro,  
Ilhas - Goa ..... Appellant.

V/s.

- 1) First Appellate Authority,  
Directorate of Accounts,  
Panaji – Goa ..... Respondent No. 1.
- 2) Public Information Officer,  
Directorate of Accounts,  
Fazenda Building,  
Panaji – Goa ..... Respondent No. 2.
- 3) Shri Prakash N. Azavedo,  
SRII Building, Flat No. G-8,  
Navelkar Hill City, Sao Pedro,  
Panvalim,  
Tiswadi – Goa ..... Respondent No. 3 (Added  
subsequently)

**Appellant in person.**

**Shri S. Amonker, representative of Respondent No. 1.**

**Respondent No. 2 alongwith Ms. A. Chodanker.**

**Respondent No. 3 absent.**

**J U D G M E N T**  
**(16.04.2012)**

1. The Appellant, Smt. Cynthia Azavedo, has filed the present Appeal praying that the order dated 29.04.2011 be quashed and set aside and Respondent No. 2 be directed to furnish the information to the Appellant as per his application dated 31.01.2011; that Respondent be directed to compensate the Appellant as per section 19(8) (b) of the R.T.I. Act.

2. The brief facts leading to the present Appeal are as under:-

That the Appellant's husband Prakash Azavedo has filed a matrimonial suit being Matrimonial Petition No. 8/08 in the Court of Civil Judge Senior Division, Panaji, seeking dissolution of his marriage with the

Appellant herein by a decree of divorce. That the Appellant is contesting the said divorce proceedings and has filed written statement/reply in the said proceedings. That the Appellant has filed an application for interim maintenance contending inter-alia that she is unemployed and dependent on her sister for maintenance. That her husband is employed with the Directorate of Transport of Government of Goa as Assistant Director of Transport and draws a gross salary of Rs.25,000/- which is substantially revised with effect from 01.01.2006 in view of acceptance by the Government of Goa of the recommendation of the VI Pay Commission. That apart from income from the salary, the husband of the Appellant also earns income from business which he is running in the names other than himself. That the Court wanted some clarification regarding exact amount of salary in order to determine quantum of maintenance and directed to place on record the copy of the revised salary certificate of Prakash Azavedo.

That the Appellant, vide here application dated 31.01.2011, 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. 2. That by reply dated 01.03.2011 the P.I.O./Respondent No. 2 declined to furnish the information on the ground that the information sought are third party in nature which is required to be furnished with prior consent of the person whose information is sought and that Prakash Azavedo, husband of the Appellant had informed the Office of Public Information Officer not to furnish the information sought by the Appellant. Being aggrieved by the order dated 01.03.2011 the Appellant preferred an appeal before First Appellate Authority (F.A.A.)/Respondent No. 1. That by order dated 29.04.2011 the F.A.A./Respondent No.1 rejected the Appeal. Being aggrieved the Appellant has preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and the reply of the Respondents is on record. These Respondents deny about case, etc. for want of knowledge. It is the case of Respondents that information was declined to be furnished as the information sought was of third party and the third party had objected stating not to furnish the same. It is further the case of the Respondents that Salary Certificate is issued only to the person concerned on his personal

request and has to specify the purpose for which same is required. According to the Respondents Appeal is liable to be dismissed.

4. Originally third party was not joined as party. However later on he was joined and notice was issued to the third party, Shri Prakash Azavedo. He did not appear. Again on two occasions notices were issued but he did not remain present.

5. Heard the arguments. Adv. Ms. A. Chodanker argued on behalf of the Appellant and Shri Amonker argued on behalf of Respondents. Third party Shri P. Azavedo remained absent.

According to Advocate for Appellant, Appellant is the wife and the Salary Certificate is to produce in the Court. According to her, being wife of the Appellant is entitled for the Salary Certificate.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. 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 31.01.2011 the Appellant sought some information i.e. the latest copy of the Salary Certificate of her husband Shri Prakash Azavedo. By letter dated 02.02.2011 the P.I.O. gave notice to Shri Prakash Azavedo as per section 11(1) and 11(2) of the RTI Act. By letter dated 21.02.2011 the said third party Prakash Azavedo informed the P.I.O. that his relation with Government is that of an employer and employee and as such the terms and conditions of his service are purely personal contract. It was also mentioned that disclosure may cause prejudice to him. By letter dated 01.03.2011 the P.I.O. declined to furnish the information as third party objects to furnish the same. Being not satisfied the Appellant preferred an appeal before the First Appellate Authority. However the Appeal was rejected.

7. Though third party is not before the Commission I am considering his submission before P.I.O. as well as F.A.A. The short point that falls for my consideration is whether the Appellant is entitled for Salary Certificate of her husband.

It is to be noted here that various public authorities in performing their functions routinely ask for 'personal' information from citizens and this is clearly a public activity. If one balances R.T.I. Act and individual's right to privacy, the citizen's right to information would naturally get greater weightage. It is held by various rulings of C.I.C. that disclosure of information such as assets of a public servant which is routinely collected by the Public Authority and routinely provided by Public Servants cannot be construed as an invasion on the privacy of an individual.

I have perused some of the rulings of Central Information Commission on the point.

(i) Ms. Mamta Johari v/s. Doordarshan, Indore (Appeal No. CIC/AD/A/09/00313 date of order 27.04.2009). The information sought about husband it was observed:- "The information regarding attendance, payable salary, GPF deduction which suspected to be more than permissible, leave records etc. were sought – The information was provided by except leave records – The Commission noted that the appellant and her small child have been harassed by her husband – he has deserted them and is not providing any maintenance allowance. She has the right to information which would help her to seek justice and accordingly though the information denied by third party, directed to be provided to appellant in the public interest."

(ii) Ms. Vipul Divya v/s. Visakhapatnam Steel Plant (Appeal No. CIC/MA/A/2009/000102 date of order 18.03.2009). In this case due to marital dispute, the information seeker has asked for information relating to service condition/appointment/educational qualification of her husband who is employee of the respondent alongwith monetary benefits/advances availed by him and details of movable and immovable property as well as IT returns. – The C.P.I.O. furnished part information but refused other information under section 8(1)(j) of the Act since her husband refused to disclose the information relating to the Bank/IT returns and property details.

"The Commission observed that a faster resolution of marital dispute is always in public interest. – Since the Appellant is legally married, with a child, and asked for details about her husband, there is no justification for withholding any part information to the appellant,

as it would assist in resolving the issue by competent authority – As long as the couple is not legally separated, refusal to share information which commonly belongs to them is untenable – Therefore the Commission directed the C.P.I.O. to furnish the desired information on the basis of available records and appellant is free to inspect the documents to satisfy herself with availability of records.

(iii) In *Smt. Revti v/s. Ministry of External Affairs* (Appeal No. CIC/AD/A/2009/000990 dated 31.08.2009) the Appellant wanted to know about the details furnished by her husband Shri Rishi Pal, while filling up his passport application for procuring passport including the information in respect of his wife, qualifications, place of work, etc. The information was denied stating that it is personal information of third party which is exempt from disclosure under section 8(1)(j) of the RTI Act and further there is no public interest. Appellate Authority confirmed the views of the P.I.O. The Commission noted that information sought relates to the husband of the Appellant. It was also noted that although the information relates to a third party, however, public interest far outweighs right to privacy of individual. Commission directed that the information as available be provided to the Appellant.

(iv) In *Anil Kumar Soni v/s. Department of Posts* (F. Nos. CIC/MA/A/2008/00025/CIC/MA/A/2008/00335 dt. 23.5.2008) it was observed that information relating to salary and wages are required to be put in public domain so that information seekers do not have to ask for such information.

(v) In *L. Priya v/s. REPCO Bank* (Decision No. CIC/PB/A/2008/01055-SM dated 20.05.2008 decided on 04.05.2009) it was held that salary and other payments made to the officer concerned cannot be denied as exempt under Section 8(j) of the RTI Act. It was further observed that this is one of the 17 types of information which the Public Authority has to proactively disclose. Thus salary and other payment details to an employee of the Public Authority is not confidential information and cannot be withheld.

Accordingly C.P.I.O. was directed to provide information.

8. In view of all this and the law bearing on the point I am of the opinion that the information sought regarding salary can be given to the Appellant. Besides, it appears that the same is required to be produced in the Court of law. Hence, I pass the following Order:-

**ORDER**

The Appeal is allowed. The order of the First Appellate Authority is set aside. The Respondent No. 2/P.I.O. is hereby directed to furnish the information to the Appellant as per her application dated 31.01.2011 within 30 days from the date of receipt of this Order.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 16<sup>th</sup> day of April, 2012.

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

