

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No.27/SCIC/2012**

Shri Bhaskar Gokarnkar,  
½, Sahyadri Co-op. Hsg. Society,  
Shivkumar Nagar,  
Near Kamgar Aghadi,  
Bhandup(E), Mumbai 400 042

... Appellant.

V/s.

1. The Public Information Officer,  
Mamlatdar of Pernem,  
Pernem - Goa
  2. First Appellate Authority,  
Collector, North Goa,  
Panaji, Goa
- ... Respondents

Appellant present.

Respondent No.1 and 2 absent.

Shri S. Verenkar (Head Clerk), representative of Respondent No.1 present.

**J U D G M E N T**  
**(28/06/2012)**

1. The Appellant, Shri Bhaskar Gokarnkar, has filed the present appeal praying that the information as sought by him vide application dated 26/9/2011 be furnished to him.

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

That the appellant, vide application dated 26/9/2011, 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 vide reply dated 5/10/2011 the request was turned down on the ground that their office cannot issue again original divergence certificate. Being not satisfied, the

appellant preferred appeal before the First Appellate Authority(F.A.A.)/respondent No.2. The First Appellate Authority(F.A.A.)/respondent No.2 did not reply. Being aggrieved the appellant has filed the present appeal.

3. The respondents No.1 resists the appeal and the reply is on record. It is the case of the respondent No.1 that the appellant has made an application dated 26/9/2011 along with a copy of divergence certificate and requested him to issue duplicate copy of divergence certificate in respect of Jaganath Xamba Tandel, Jaganath Shamba Gokrankar. That original/duplicate copy of divergence certificate can not be issued to the third person and that by letter dated 5/10/2011 the appellant was informed. According to respondent No.1, the appeal is liable to be dismissed.

4. Heard the appellant and Shri S. Verenkar, the representative of respondent No.1 and perused the records. It is seen that by application dated 26/9/2011 the appellant sought certain information i.e. divergence certificate i.e. duplicate copy of the same. By reply dated 5/10/2011, the respondent No.1 informed the appellant that original divergence certificate has already been issued and therefore they cannot issue again original divergence certificate. It is seen that appellant preferred the appeal. However according to the appellant the same is not decided. It is to be noted here, RTI is a time bound programme. The F.A.A. has to decide the appeal within 30 days or by extended period of 15 days but with reasons. In any case, the F.A.A to take note that the appeal under R.T.I. is to be disposed in time.

5. What the appellant is seeking by the present application is the copy of divergence certificate. Under R.T.I. the information seeker is entitled to the information which is held “**by the public authority**”. Of course duplicate copy may not be issued but copy duly certified under R.T.I. can be issued of the existing documents. Again P.I.O. can not create information. Only existing information

is to be furnished. In view of this in my opinion the copy of the relevant record can be given to the appellant.

6. Regarding aspect of delay. That application was filed on 26/9/2011 and reply is furnished on 5/10/2011. There is no delay as such. It is the contention of the appellant that the appeal is not decided. However F.A.A. is not covered by the penal provisions of the R.T.I. Act.

7. In view of all the above, I pass the following order :-

### **ORDER**

The appeal is allowed. The respondent No.1 is hereby directed to furnish to the appellant the information sought by him vide his application dated 26/9/2011 within 20 days from the receipt of this order.

Needless to add that copy of the existing documents be furnished.

The appeal is, accordingly, disposed off.

Pronounced in the Commission on this 28<sup>th</sup> day of June, 2012.

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