

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Appeal No. 96/SCIC/2011

Mr. Prakash H. Kavlekar,  
H. No. 179/4,  
Near People's High School,  
Fontainhas,  
Panaji - Goa .... Appellant

V/s.

1) Public Information Officer,  
Directorate of Mines & Geology,  
Udyog Bhavan,  
Panaji - Goa .... Respondent No. 1.

2) First Appellate Authority,  
Mr. Arvind Loliekar,  
The Director of Mines & Geology,  
Directorate of Mines & Geology,  
2<sup>nd</sup> Floor, Udyog Bhavan,  
Panaji - Goa ... Respondent No. 2.

Appellant in person.

Shri J. Sirsat, A.P.I.O., representative of Respondent No. 1.

**J U D G M E N T**  
**(12.10.2011)**

1. The Appellant, Shri Prakash H. Kavlekar, has filed the present Appeal praying that the Appeal be allowed and the First Appellate Authority be directed to instruct the Public Information Officer/Respondent No. 1 to furnish the information sought for by the Appellant.

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

That the Appellant, vide his application dated 14.01.2011, 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. 1. That by reply dated 09.02.2011 the P.I.O. informed that the information sought was submitted to their office by way of fiduciary relationship under section 8(e) of the R.T.I. Act, 2005 and hence cannot be issued. Being aggrieved the Appellant preferred an Appeal before the First Appellate Authority (F.A.A.). That the F.A.A. fixed the hearing on 24.03.2011, however, the Respondent No. 1 did not appear and F.A.A. stated that appropriate order

would be passed. However till 30 days were over no order was passed. Being aggrieved the Appellant preferred the present Appeal.

3. The Respondent No. 1 resists the Appeal and the reply is on record. In short, it is the case of the Respondent No. 1 that the Appellant sought information vide application dated 14.01.2011. That the Respondent sent the reply dated 09.02.2011 informing that information cannot be issued in view of section 8(e) of the R.T.I. Act. That the Appellant preferred an appeal before the first Appellate Authority (F.A.A.)/Respondent No. 2. That the F.A.A. passed the order dated 25.05.2011. It is the case of the Respondent N. 1 that information is furnished by letter dated 22.07.2011. The Respondent No. 1 also states about letter being written to Central Public Information Officer, Indian Bureau of Mines, Nagpur and at Margao Office and received letter dated 26.08.2011.

4. The Appellant has filed an application dated 12.10.2011. I have perused the same.

5. Heard the Appellant and Shri J. Sirsat (A.P.I.O), the representative of Respondent No. 1.

During the course of arguments the Appellant submits that he has received the information. He has no grievance of any sort and that he is fully satisfied.

Since information is furnished no intervention of this Commission is required.

6. It is seen that application seeking information is dated 14.01.2011. The reply furnished is in time, i.e. on 09.02.2011. The Appellant preferred an appeal on 03.03.2011. The F.A.A. passed the order on 25.05.2011. It is to be noted here that under R.T.I. First Appeal is to be disposed within 30 days or within 45 days with reasons. In the instance case there is delay in disposing the Appeal. However, F.A.A. is not covered by penal provision. F.A.A. to take note that time schedule is to be strictly maintained.

7. I have perused the ruling of C.I.C. dated 07.06.2010 produced on record.

Section 8 lays down as under:-

“8. Exemption from disclosure of information.

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, --

(a) .....

(b) .....

(c) .....

(d) .....

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.

(f) .....

(g) .....

(h) .....

(i) .....

.....

.....

(j) .....

.....”

‘Fiduciary relationship’ means of ‘trust’ or having relation as trustee.

In *Pratipal Singh v/s. Shri Guru Tej Bahadur Khalsa College* (CIC/SG/A/2008/00172/1487 dt. 04.02.2008) it is observed as under:-

“A fiduciary relationship is one where the key element is that the relationship is principally characterized by trust and the information is given for use only for the benefit of the giver. Here, the information has been given as per the rules to gain admission, and this cannot be called a fiduciary relationship. The traditional definition of a fiduciary is a person who occupies a position of trust in relation to someone else, therefore requiring him to act for the latter’s benefit within the scope of that relationship. In business or law, we generally mean someone who has

specific duties, such as those that attend a particular profession or role, e.g. financial analyst or trustee”.

Normally, all relationships have an element of trust but all of them cannot be considered as fiduciary. Information about quantity of material transported and its cost is not treated as fiduciary.

In any case since information is furnished the above discussion is purely academic.

8. In view of all the above, I pass the following Order:-

**ORDER**

No intervention of this Commission is required as information is furnished. The Appeal is disposed off.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 12<sup>th</sup> day of October, 2011.

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





