

# **GOA STATE INFORMATION COMMISSION**

**Ground Floor, Shrama Shakti Bhavan, Patto Plaza, Panaji- Goa.**  
CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

Appeal 129/SCIC/2011

Decided on 06/01/2014

Shri Rui Ferreira,  
H.No. E-1, Near Panjim Church ,  
Panaji Goa. 403 001.

----- Appellant

V/s  
G.M. Redker, Asst. Registrar &  
Public Information Officer,  
High Court of Bombay at Goa,  
Panaji – Goa.

----- Respondent No. 1

I.K. Jain, Registrar,  
First Appellate Authority,  
High Court of Bombay at Goa,  
Panaji – Goa.

----- Respondent No. 2

## **ORDER**

This second Appeal is filed on 13/06/2011 and it arises out of RTI application against the PIO and Assistant Registrar of High court of Bombay at Goa and also against Respondent No. 2 who is the FAA and the Registrar of High court of Bombay.

The Respondent No. 1 has submitted on 25/05/2012 that any Appeal preferred against the order of the Appellate Authority ( High Court ) under Right to Information does not lie before the State Information Commission but before the Central Information Commission, New Delhi.

Towards this the respondent has cited 3 cases decided by Chief Information Commissioner of Central Government. First is the file No. CIC/AT/A/2008/01137 dated. 13/03/2009 and the following paragraphs are quoted.

*“The appellant submitted an application under the RTI Act, 2005 to the Public Information Officer (PIO) of the High Court of Judicature at Bombay on 16.04.2008 seeking 11 items of information”.*

*When the appellant did not receive any reply from the First Appellate Authority within the time prescribed, he submitted second –appeal before this Commission on 08.08.2008.*

*The First Appellate Authority in the meanwhile rejected the appeal petition filed by the appellant.*

*The appellant was also advised that if he feels aggrieved with the above order, he may prefer second – appeal before the State Information Commission, Bombay within 90 days of the receipt of the letter. However, the appellant in his letter dated 12.9.2008, a copy whereof has been marked to this Commission, has stated that he did not receive any of the communications stated to have been sent to him by the PIO of the Bombay High Court.*

*PIO by his note dated 15.10.2008 also informed the Registrar General of the High Court that by letter dated. 14.8.2008, PIO had already informed the appellant that 2<sup>nd</sup> appellate authority is the State Information Commission but since the appellant has already filed 2<sup>nd</sup> appeal before the Central Information Commission in which he has not made any specific request, therefore, the said letter should be filed without taking any action.*

*The PIO and the Appellate Authority submitted a combined written reply before this Commission on 29.01.2009 stating, inter-alia, as under:*

- i) The second-appeal is not maintainable as it should have been filed before the State Information Commission.*
- ii) Reasons and justification being sought in respect of judicial proceedings do not come within the ambit of Right to Information Act in view of judgement of the High Court in the case of Dr. Celsa Pinto, Ex- Officio Joint Commission” ( 2004 Volo.110(4) Bombay L.R. 1238).*

*Since the Central as well as the State Information Commissions are constituted by the respective Governments, their jurisdiction will naturally be separate and distinct. What would come within the domain of the State would fall within the jurisdiction of the State Information Commission and whatever is within the domain of the Union of India will be within the exclusive jurisdiction of the Central Information Commission.*

*The constitution and organization of the High Courts is within the legislative ambit of the Parliament under Entry 78 to the Schedule VII of the Constitution. Article 231 of the Constitution provides that the Parliament may by law establish a common High Court for two or more States or two or more States and Union Territories. Thus, all the High Courts as Public Authorities under the Right to Information Act 2005 will come within the jurisdiction of the Central Information Commission and not State Information Commission. The issue is decided accordingly.”*

He has also cited the judgement of CIC New Delhi in File No. CIC/SM/A/2011/001527 dated 21/05/2012 which is against the PIO of High Court at Bombay and also other citation which is file No. CIC/SM/C/2011/001149 dated. 21/05/2012 against the PIO and Registrar of Rajasthan High Court. These matters came up nearly 3 years after the 1<sup>st</sup> citation supra, and the CIC has reiterated the stand that 2<sup>nd</sup> appeal against the order of Registrar of High Court (being first appellate authority) shall lie with CIC and not with State CIC.

Coming back to the present matter, it could not be taken up for hearing between August 2012 to October 2013 as the post of SCIC was lying vacant. Then the case came up for hearing on 27/11/2013.

Respondent No. 1 referred to the above citation. He also submitted the gazette notification published in the Maharashtra Government Gazette on Saturday 16<sup>th</sup> December 2006, under which the High Court of Bombay have declared the PIO's and Appellate Authority for various courts working under jurisdiction. This gazette does not give any information regarding the 2<sup>nd</sup> Appellate Authority.

In view of the above the Respondent prays that the second Appeal may be dismissed, not being under the jurisdiction of SCIC.

The Appellant has submitted the rejoinder on 06/01/2014 giving various reasons as to why the SCIC should be declared as having jurisdiction. His main reliance is on the fact that the salaries of the members of High Court Bombay at Goa are paid by the State of Goa.

However, I agree with the argument of Respondent and more specifically with the citation indicating how the CIC Delhi has been deciding second appeals arising against the FAA, and the Registrar of various High Courts. It is nevertheless necessary to point out that in all future first appeals under RTI Act 2005, the First Appellate Authority of the Mumbai High Court of Bombay should specifically mention in all future cases that the second appeal shall lie with the Central Chief Information Commissioner at Delhi.

With the above observations, the second appeal is dismissed. Declared in open Court.

Inform the parties.

Sd/-

**(Leena Mehendale)**

Goa State Chief Information Commissioner,  
Panaji – Goa.