

# **GOA STATE INFORMATION COMMISSION**

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

**Appeal: 16/SCIC/2011**

**Decided on: 19/05/2014**

Shri .Nishant G. Sawant,  
R/o.H.No.1188, Mahalaxmi,  
Bandora, Ponda –Goa.

.....Appellant

V/s

1. Executive Engineer-XVI/ Public Information Officer,  
P.W.D., Work Div XVI(B),  
Ponda, Goa.
2. Superintendent Survey of Works/First Appellate Authority,  
P.W.D.,  
Altinho, Panaji-Goa.

.....Respondents

## **ORDER**

<b>RTI application filed on</b>	<b>: 05/04/2010</b>
<b>PIO reply</b>	<b>: 19/04/2010</b>
<b>First Appeal filed on</b>	<b>: 14/10/2010</b>
<b>First Appellate Authority Order</b>	<b>: 12/11/2010</b>
<b>Second Appeal filed on</b>	<b>: 24/01/2011</b>

(1) This second appeal arises from the original RTI application dated 05/04/2010 made to PIO/ Executive Engineer, W.D.XVI (B), PWD, Ponda, Goa, in respect of Tender Notice No. PWD/Div. XVI (BC)/TS/22/2009-10, dated 21/01/2010.

(2) The appellant in his second appeal prays as follows:-

*“The Respondent No I and II be directed to Act provide information free of cost as applied by Appellant by his Application dated 05/04/2010” and*

*“The respondent no .1 may be imposed penalty under RTI Act for delay misguiding and not providing information as applied till date.”*

(3) From the record it is seen that the PIO had issued a letter dated 19/04/2010 inviting the appellant to inspect the records and documents in relation to his 9 RTI applications filed within 29/03/2010 to 05/04/2010. However, the appellant failed to inspect and instead filed first appeal memo on the ground that he has not received information within the time specified .

(4) The Order of FAA in 1<sup>st</sup> Appeal No. 179/2010 was passed on 12/11/2010 wherein the following was held :

*““As agreed by both the parties the appeal stands disposed off with the following order:*

*The respondent SPIO, the Executive Engineer, Works Div XVI, PWD, shall furnished to the appellant certified copies of the relevant documents free of charge and provide inspection of works , records , and documents as sought by the appellant vide his application dated 05/04/2010 within a period of 10 days from the date of receipt of this order”.*

(5) In pursuance of FAA's Order dated 12/11/2010, the PIO issued letter dated 24/11/2010 asking the appellant to inspect the records and documents so that copies of identified documents could be given to him.

(6) The appellant once again failed to carry out inspection and filed second appeal before the Commission. I find that the 2<sup>nd</sup> Appeal Memo does not mention any grounds of appeal either, but simply gives chronology of events alongwith the prayer.

(7) On going through the documents, I find that the FAA vide his Order dated 12/11/2010 has passed an elaborate Order. In the said Order it is stated that the appellant was invited by PIO to attend his office on 26/04/2010 for inspection of records and documents which were kept ready, however, the appellant did not attend his office. The appellant is silent on this aspect throughout his appeal and simply pleaded that since he did not get the information in time he should get it free. The FAA has ordered and held that as agreed by both parties information be furnished free of cost and inspection be permitted within 10 days of receipt of this order.

(8) A reply dated 27/06/2011 filed by the PIO to the second appeal was taken on record as per the roznama dated 27/06/2011. The appellant has received it but not filed any rejoinder. The PIO has stated that the appellant had altogether filed 9 RTI applications to which a common reply dated 19/04/2010 was sent requesting the appellant to carry out the inspection of the documents. However, the appellant did not visit the office of the PIO to carry out the inspection and instead filed First Appeal before the FAA. The FAA had directed the PIO that the information be given free of cost to the appellant and inspection of documents may be permitted within 10 days. Appellant however failed to attend the office of the PIO inspite of a fresh letter dated 24/11/2010 issued by the PIO in pursuance to the FAA order. .

(9) I have perused all the documents on records. It is pertinent to note that the appellant has failed to inspect the documents and make his selection, inspite of opportunity given by PIO, first vide letter dated 19/04/2010 to inspect and collect the information, and second time on 24/11/2010 as directed by FAA. Hence, though the FAA had ordered that the information be given free of cost, the same cannot be considered in isolation in view of the opportunities for inspection. Moreover, the PIO was not deficient or negligent in offering information to the appellant. The FAA has recorded about him as below,

*“ After hearing the submission of both the parties and taking into consideration the documents on record ,the undersigned is of the opinion that the Respondent SPIO Executive Engineer, Work Div. XVI, PWD, has not shown any malafide intention in hiding or refusing to furnish any information sought by the Appellant. The Respondent SPIO has also stated that he has got all the documents ready to furnish to the Appellant and has also agreed to provide necessary inspection of works, records and documents as requested by the Appellant”.*

(10) The RTI Act, 2005 clearly sets out to protect the RTI Applicant from unnecessary payment for documents which are not relevant to him and hence provides for inspection. The purpose of inspection of records and documents is to avoid unnecessary payment by the applicant. By permitting inspection the applicant is in position to identify and mark those documents which will be of relevance to him. Similarly, there is another side to the whole concept of inspection.

(11) The preamble of the RTI Act, 2005 states as follows , “ *And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the government, optimum use of **limited fiscal resources** and the preservation of confidentiality of sensitive information, And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal,*

*Now, therefore, it is expedient to provide for furnishing certain information to citizen who desire to have it.”*

Thus the limited fiscal resources are to be kept on mind. An applicant will want inspection, so that he does not have to pay for unnecessary documents. Similarly, he has to be diligently agreeable for inspection so that govt resources are not wasted in supplying documents not really needed by him.

(12) In the present case, the FAA has directed the PIO to furnish documents free of charge and to allow inspection of documents within 10 days.

(13) The appellant is reading the order of FAA as if he has drawn a wall between the two thereby making two parts of his order viz., first directing to give information and subsequently allowing inspections of records and documents which does not make sense. The 2 parts have to be read together as a direction for inspection of records followed by furnishing the documents pointed out by the appellant during the course of the inspection.

Hence, now I order that the applicant be permitted to have inspection of records and documents first in order to identify and mark those documents that are identified by him and furnish the same on payment of necessary charges.

(14) This way the appellant will save the cost of xeroxing of documents not needed by him. The Preamble makes it clear that everyone has responsibility for ensuring that no unnecessary expenditure of Government resource

(15) As discussed above, it cannot be accepted that the appellant made attempts to inspect the records or that PIO has defaulted in supply of information. Now quite a time has elapsed since the RTI application was filed by the applicant on 05/04/2010. It is possible that the appellant is not interested in the information. In view of this, I pass the following order.

**-- O R D E R --**

The appeal is therefore dismissed with liberty that the appellant should within 15 days from this order, communicate to the PIO that he is willing to inspect the records and documents in order to identify the documents needed by him. Thereafter the PIO should provide information within 10 days, by charging necessary fees.

Second appeal is dismissed with liberty as above. Inform the Parties.

Sd/-  
**(Leena Mehendale)**  
Goa State Chief Information Commissioner  
Panaji – Goa.