

“A CITIZEN HAS A RIGHT TO KNOW ABOUT THE ACTIVITIES OF STATE, THE INSTRUMENTALITIES, THE DEPARTMENTS AND THE AGENCIES OF THE STATE. THE PRIVILEGE OF SECRECY WHICH EXISTED IN OLD TIMES THAT STATE IS NOT BOUND TO DISCLOSE THE FACTS TO THE CITIZENS OR STATE CANNOT BE COMPELLED BY THE CITIZEN TO DISCLOSE THE FACTS, DOES NOT SURVIVE NOW TO A GREATER EXTENT. UNDER ARTICLE 19 THERE EXISTS THE RIGHT OF FREEDOM OF SPEECH. FREEDOM OF SPEECH IS BASED ON THE FOUNDATION OF RIGHT TO KNOW.”

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**FROM THE DESK OF CHIEF INFORMATION**  
**COMMISSIONER (SCIC)**

IT IS WITH GREAT PLEASURE AND PRIDE THAT THE GOA STATE INFORMATION COMMISSION IS PRESENTING THIS REPORT PERTAINING TO LAST FOUR YEARS. INITIALLY THE COMMISSION REMAINED VACANT FROM FEBRUARY 2015 FOR WANT OF APPOINTMENT OF INFORMATION COMMISSIONERS AND THEREAFTER FROM 1<sup>ST</sup> JANUARY 2016 THIS COMMISSION WAS GRANTED THREE COMMISSIONERS INCLUDING THE CHIEF INFORMATION COMMISSIONER.

AFTER TAKING OVER THE CHARGE AS COMMISSIONERS, IT WAS FOUND THAT DUE TO EARLIER INTERRUPTIONS IN FUNCTIONING OF THE COMMISSION THERE WAS A BACKLOG OF PENDENCY WHICH REQUIRED PRIORITY ATTENTION. THE EARLIER STAFF STRENGTH, WHICH WAS FOR ONE COMMISSIONER, WAS INADEQUATE TO COPE UP WITH THE WORK OF THIS COMMISSION AND HENCE THE AVAILABLE STAFF HAD TO BE UTILIZED FOR REGULAR HEARING OF THE CASES.

AS ON 1/1/2016, THE COMMISSION HAD A BACKLOG OF OVER 2000 CASES PENDING SINCE THE YEAR 2010. DURING THE PERIOD, NUMEROUS CASES WERE FILED. THE OLD CASES HAD TO BE GIVEN PRIORITY AND AFTER A SPAN OF **ABOUT THREE YEARS COMMISSION HAS SUCCEEDED IN DISPOSING 1943 CASES AND BRINGING DOWN THE PENDENCY TO ABOUT 200 MATTERS.**

DURING PERIOD OF REPORT, ISSUES OF VARIOUS NATURES PERTAINING TO THE ACT WERE HANDLED. AS THE RTI ACT 2005 HAS COMPLETED A DECADE, VARIOUS DECISIONS OF THE HIGH COURT AND THE SUPREME COURT PASSED DURING THE SAID PERIOD HAD INFLUENCE OVER THE CASES TO BE DECIDED.

**WHILE DISPOSING THE CASES A FINE BALANCE IS TRIED TO BE ACHIEVED CONSIDERING THE INTENT WITH WHICH THE ACT CAME IN EXISTENCE.**

**WITH PAIN AND CONCERN IT IS NOTED THAT INSPITE OF PASSAGE OF TIME THE PUBLIC AUTHORITIES HAVE NOT TAKEN STEPS TO EQUIP THEMSELVES WITH THE REQUIREMENTS OF THE ACT. THE REQUIREMENTS OF SECTION 4(1)(A) AND THAT OF DEVELOPING AND UPDATING THE WEBSITES ARE NOT COMPLIED WITH. AN EFFORT OF PUBLIC AUTHORITIES TO COMPLY WITH SAID REQUIREMENTS WOULD HAVE SAVED ITS TIME AND EFFORT IN DEALING WITH RTI REQUEST.**

**IT IS ALSO NOTICED THAT LACK OF CONCERN TO DEAL WITH THE REQUEST FOR INFORMATION IN PRESCRIBED TIME RESULTING IN DISSEMINATION OF FREE INFORMATION HAS CAUSED LOSS OF REVENUE TO THE GOVERNMENT.**

**DURING THE PERIOD OF THIS REPORT SEVERAL ACTIVITIES FOR FACILITATING THE SEEKERS OF INFORMATION WERE GENERATED IN ASSOCIATION WITH NGOS WORKING IN THE FIELD OF RTI. THE STATE CHIEF INFORMATION COMMISSIONER AND STATE COMMISSIONER WERE INVITED BY THE NATIONAL UNIVERSITY OF JURIDICAL SCIENCE, KOLKATA AS GUEST TO SPREAD THE BEST PRACTICES ADOPTED BY THE COMMISSION IN DEALING WITH RTI CASES. COMMISSIONERS ATTENDED ANNUAL CONVENTION AND CONFERENCES HOSTED BY CENTRAL INFORMATION COMMISSION NEW DELHI, TO UPDATE THEMSELVES WITH THE NEW TRENDS IN RTI. THE CHIEF INFORMATION COMMISSIONER HAD AN OPPORTUNITY TO PRESENT PAPER ON THE SUBJECT “AMENDMENTS TO RTI A NEED FOR EFFECTIVE IMPLEMENTATION” DURING THE 13<sup>TH</sup> ANNUAL CONVENTION IN 2018 WHICH WAS INAUGURATED BY HON’BLE PRESIDENT OF INDIA SHRI RAMNATH KOVIND.**

**THE NATIONAL FEDERATION OF INFORMATION COMMISSIONS OF INDIA (NFICI) IS THE FEDERAL BODY OF THE INFORMATION COMMISSIONS IN INDIA. THE STATE CHIEF INFORMATION COMMISSIONER IS THE MEMBER OF THE GOVERNING BOARD OF THE FEDERATION. NFICI HELD SEVERAL MEETINGS WHEREIN SEVERAL ISSUES PERTAINING TO THE COMMISSIONS AND THE ACT AT LARGE WERE DISCUSSED.**

**OUR STAFF HAS TAKEN ACTIVE INTEREST AND PARTICIPATION IN COMPILING THIS REPORT. FOR EASY REFERENCE AND CONVENIENT READING THIS REPORT IS ARRANGED IN CHAPTERS WITH RELATED SUB HEADS. COMMISSION HAD TAKEN ALL CARE TO MAKE THIS REPORT INFORMATIVE AND USEFUL. BY THIS REPORT SEVERAL SUGGESTIONS ARE MADE BY THE COMMISSION FOR BRINGING SOME OF THE PRACTICES OF THE PUBLIC AUTHORITIES WHICH ARE NOT IN CONFORMITY WITH THE PROVISIONS OF THE RTI ACT 2005. I AM HOPEFUL THAT DUE ATTENTION IS WILL BE RECEIVED FOR EFFECTIVE FUNCTIONING OF THE COMMISSION AND IMPLEMENTATION OF THE RTI ACT.**

**THE PRESENT REPORT IS PREPARED IN PURSUANCE TO SECTION 25(1) OF THE RTI ACT AND HOPE THAT, ON LAYING THE SAME BEFORE THE STATE ASSEMBLY, THE SAME SHALL RECEIVE ADEQUATE ATTENTION.**

**PRASHANT S.P. TENDOLKAR  
CHIEF INFORMATION COMMISSIONER,  
GOA STATE INFORMATION COMMISSION**

## **CHAPTER – 1**

### **1.1 INTRODUCTION.**

Constitution of India vide its articles 19(1) and 21 envisages a right in favour of the citizen to know anything and everything done by public functionaries. Thus Right to know is the sine qua non of democracy. The Right to Information Act 2005 (RTI Act) was promulgated in the same background to strengthen the powers of citizen to secure the access to information held by the public authorities.

Section 7 of the RTI mandates the Public Authorities to disseminate the information held by it. The limitations and exemption from disclosure is contained in section (8) (9) and (24) of the RTI Act and to some extent also u/s 11 thereof.

RTI Act prescribes three forums for its implementation. The Public Information officer (PIO), the First Appellate Authority (FAA) and the second Appellate Authority or the central/State Information Commission (Commission).

The provisions of RTI Act included obligation of public authorities, constitution of Information Commission, designation of Public authorities, constitution of Information Commission, designation of Public Information Officers/ Assistant Public Information Officers and the powers to make rules by various competent Authorities. The Act has comprehensive reach and covers a wide spectrum of bodies. All the Departments and Undertaking of various Governments, Panchayat Raj Institutions, Urban Local Bodies, other Bodies established, constituted, owned, controlled or substantially financed by Governments including non-governmental organization are covered under the Act. Access to information to all Indian citizens is the general rule under this Act, with very few exemptions which are subject to strict safeguards provided in the Act itself.

In pursuance of Sub-Section (1) of Section 15 of the said Act, the Government of Goa by notification No. 10/02/2006/LA, dated 02/03/2006




published in the Official Gazette Series I No. 14, dated 02/03/2006 constituted the Goa State Information Commission consisting of State Chief Information Commissioner and one State Information Commissioner.

In exercise of the power conferred by section 27 read with sub-Section (6) of Section 16 of the Right to Information Act, 2005 (Central Act No. 22 of 2005), the Government of Goa has also notified GSIC Appeal Procedure Rules 2006 vide notification No. D/INF/RTI/2005/4531.

### **1.2.CONSTITUTION & COMMISSIONERS.**

The present Goa State Chief Information Commissioner, Shri Prashant S.P. Tendolkar was appointed vide Order No. **DI/INF/SIC-APPL/2014/2015/4876 dated 11<sup>th</sup> December 2015** notified in the Official Gazette, Government of Goa, Extraordinary, Series II, No.39, dated 24<sup>th</sup> December 2015 and took oath on 1/1/2016 along with other State Information Commissioners.

The details of the Information Commissioners of the and the Officials during the period of report are as follows:

<b>STATE CHIEF INFORMATION COMMISSIONER.</b>		<b>STATE INFORMATION COMMISSIONER.</b>	
1. Shri. Prashant S.P. Tendolkar, (01/01/2016 till date)		1.Smt. Pratima K. Vernekar (01/01/2016 till date)	
		2. Shri. Juino De Souza (01/01/2016 till date)	

### **1.3. OFFICE & OFFICERS**

The Commission initially started functioning from the residence of Shri. A. Venkatratnam, the first SCIC of Goa. On 08/06/2006 the State Government allotted premises admeasuring 96.58 square meters on the ground floor of

Shramashakti Bhavan which is located near Panaji Bus-stand at Patto. The said premises which was infact two shops (48.29 square meters each) and lacking basic amenities and highly inadequate, was nevertheless convenient to the citizen and the RTI appellants due to its proximity to the Panaji Bus stand. In 2013 – 2014 renewed attempts were made by the Commission to procure appropriate premises. The State Government suggested premises at Ribandar, however, the Commission requested the Hon’ble Chief Minister to reconsider the same taking into account the fact that parties appearing before the Commission are coming from across the length and breath of Goa and hence any premises near Panaji Bus stand will be convenient to all. Finally the then Chief Minister took personal interest to resolve the issue and the State Government vide Order No. 01/06/2012-GAD-IV-PF-1/95, dated 14/02/2014 allotted premises on rental basis at Kamat Towers, Seventh floor, which is located near Panaji Bus Stand at Patto. Since 2014 the work has increased manifold, present area is insufficient, hence have requested Government to clear old files by sending to archives so that space constraints can be reduced.

The office is/was managed by the following officers:

<b>SECRETARY</b>		<b>UNDER SECRETARY CUM REGISTRAR</b>	
1.Smt. Irene V. Sequeira, (27/02/2014 till date)		Shri Dashrath Redkar, Additional Charge	
		Shri Vishal Kundaikar , Additional Charge	
		Smt.Shanti Makwana Harding , Additional Charge	



#### **1.4 STAFF :**

The details of number of staff sanctioned for the Commission and the staff actually posted are as follows :

<b>Categories of Posts.</b>	<b>Sanctioned strength</b>	<b>No. of Staff actually posted</b>	<b>Number of Posts vacant.</b>
Section Officer	01	0	01
Accountant	01	01	NIL
Stenographer Grade I	03	02	01
Junior Steno	02	00	02
UDC	01	00	01
LDC	03	02	01
Peon	02	00	02
Driver	03	01	02

Above figures shows that there is acute shortage of staff at the Commission. Moreover, the number of staff sanctioned was in consideration of two commissioners as against present strength of three.

#### **1.5. BUDGET:**

The Budget to meet the expenses of the Commission comes under Demand No. 56, Budget Head 2220- Information and Publicity, 01- Films, 001- Direction and Administration, 03- Goa State Information Commission (Plan), 31- Grant-in-Aid. Secretary to the Commission is Drawing and Disbursing Officer.

The Powers of the Secretary of this Commission are as per the Delegation of Financial Power (Rules), 2008. The nodal officer of this Commission is Director of Information and Publicity.

The details of the funds allotted and the expenditure incurred by the Commission for the financial years 2014- 2015, 2015-2016, 2016-2017 and 2017-2018 is as follows :

	<b>Actual Expenditure incurred (in Lakhs)</b>	<b>Funds allotted (in Lakhs)</b>
2014- 2015	82.87	72.60 + 13.13*
2015-2016	75.95	100.75 + 3.29*
2016-2017	161.35	150.05 + 29.15*
2017-2018	256.38	300.00 + 19.12*

\*Amount carried forward of previous balance & bank interest.

## **1.6. MEDIA CENTRE:**



**Oath by SCIC**



**Oath by SIC**



**Oath by SIC**



**SCIC & SICs with LokAyukta  
Just(Rtd) P.K.Mishra**

### **Photos of functions attended by SCIC and SIC's**



**At Commission**



**State Chief Information Commissioner  
presenting his Paper during 13<sup>th</sup>  
Annual Convention of Central  
Information Commission at New  
Delhi.**



**SCIC presenting award at M.S.Kare College of Law**



**Galaxy of SCICs & SICs of Indian States during 13<sup>th</sup> annual convention**



**SCIC at Annual Convention at New Delhi**



**SCIC & SIC with CIC, Central Information Commission**



**View of SCIC as published**



**State Information Commissioner seen exchanging greetings with His Excellency, The President of India.**



**SIC at Goa RTI Forum**



**NFICI Conference and Workshop at Jaipur**

## **CHAPTER – 2**

### **STATISTICAL DATA**

The Annual Report focuses essentially on status of implementation of the Act by Public Authorities in accordance u/s 25(2) of the Act.

The data received from Public Authorities regarding RTI applications for 2015 to 2018 have been complied by this Commission to be reported in the Annual Report of 2015-2018 of the GSIC.

Sr.No		2015	2016	2017	2018
1.	No. of Annual Report submitted	57	90	113	61
2.	How many request have been Received	5,468	8,954	16,867	8,502
3.	How many request have been Disposed	5,325	8,385	15,715	7,878
4.	Total No. of P.I.O.s	176	254	408	235

However, the 1<sup>st</sup> and 2<sup>nd</sup> appeals from the RTI applicants may also continue to increase unless practices relating to record management, Proactive disclosure and effective dissemination of information on the website are put in place. The Heads of Departments who are also the Public Authorities have to note that fulfilling their obligation under section 4 of RTI Act reduces the work of PIO/FAA and the Commission.

It is also evident that most of the PIOs are providing required information within prescribed time limit. Some of the PIO's are required to put more efforts, in the disposal of the application but generally speaking the request for information received and provided during the year 2015- 2018 has been quite satisfactory.

The Act contains a provision for filling first appeal with the designated Appellate Authority of the concerned Department so that applicants can get the desired information by approaching Head of Departments. Almost all public authorities have been designated as appellate authorities under the Act.

GSIC has observed that, there are Departments, which adhered the “Guidelines” for the submission of the Report. There are several Departments, who have not



taken their Annual Report writing seriously. They did not submit their ‘Annual Returns’ for the year 2015 -2018.

It is also possible that some Public Authorities / Autonomous bodies / Colleges / Institutions who have not received any application under RTI Act in a reporting year do not realize the necessity of filling report. It needs to be clearly emphasized that even ‘nil’ status has to be reported to ascertain the number of registered Public Authorities submitting their Annual Returns.

It is observed that increased efforts are needed on the part of Public Authorities to ensure compliance of order by the CIC & SIC on the various appeals from time to time. Thus, and the compliance of FAA order, will reduce the number of penalty cases.

RTI is a excellent tool to promote transparency & accountability in the working of every Public Authority. Let us take this opportunity and do the best.

## **2.1. TABLE SHOWING DETAILS OF APPLICATION RECEIVED:**

The following tables give the breakup of application received by various public authorities in the State during the reporting year.

<b>Sr.No</b>	<b>Status of Public Authorities received RTI Applications</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
1.	No. of Public Authorities which received more than 1000 RTI Applications	01	01	04	2
2.	No. of Public Authorities which received more than 500-1000 RTI Applications	-	03	02	3
3.	No. of Public Authorities which received more than 100-500 RTI Applications	11	14	15	10
4.	No. of Public Authorities which received more than 50-100 RTI Applications	07	16	13	10
5.	No. of Public Authorities which received more than 25-50 RTI Applications	08	12	13	11
6.	No. of Public Authorities which received less than 25 RTI Applications	30	44	66	25

**Highest No. of RTI Application received**

Public Works Department	..... 2297
Town and Country Planning Department	..... 1118
Directorate of Settlement and Land Records	..... 754
Forest Department	..... 601

**2.2. TABLE SHOWING AUTHORITIES WHICH RECEIVED MAXIMUM REQUESTS.****2015**

Sr. No.	Name of Department	No. of Department	No. of Requests
<b>1</b>	<b>No.of Public Authorities which received more than 1000 RTI Applications</b>	01	
1	Collectorate South Goa District, Margao		2,079
<b>2</b>	<b>No.of Public Authorities which received more than 500-1000 RTI Applications</b>	-	-
<b>3</b>	<b>No.of Public Authorities which received more than 100-500 RTI Applications</b>	11	
1	Department of Environment		283
2	Directorate of Mines & Geology		232
3	Goa University		146
4	Water Resources Department		437
5	Directorate of Accounts, Panaji		168
6	Department of Tourism		190
7	Commercial Tax Department		168
8	Goa Public Service Commission		112
9	Directorate of Education		406
10	Captain of Ports		102
11	Labour & Employment		159
<b>4</b>	<b>No.of Public Authorities which received more than 50-100 RTI Applications</b>	07	
1	State Directorate of Craftsmen Training		94
2	Department of Animal Husbandry & Veterinary Services		63
3	Directorate of Tribal Welfare		53
4	Inspectorate of General of Prisons, Panaji		58
5	Directorate of Industries, Trade & Commerce		89
6	Directorate of Archives & Archaeology		79
7	Goa State Commission for Women		56
<b>5</b>	<b>No.of Public Authorities which received more than 25-50 RTI Applications</b>	08	
1	Directorate of Prosecution		26
2	Directorate of planning Statistics & Evaluation,		26
3	Department of Science Technology & Environment		29

4	Inspectorate of Factories & Boilers, Altinho, Panaji Goa.		37
5	Directorate of civil Aviation		26
6	P. E. S. Ravi Nail College of Arts & Science, Farmagudi		25
7	Institute of Psychiatry and Human Behaviour, Bambolim		43
8	Finance (Rev & Cont) Department, Secretariat		35
<b>6</b>	<b>No.of Public Authorities which received less than 25 RTI Applications</b>	30	

## 2016

Sr. No.	Name of Department	No. of Department	No. of Requests
<b>1</b>	<b>No.of Public Authorities which received more than 1000 RTI Applications</b>	01	
1	Public Works Department, Altinho		2,336
<b>2</b>	<b>No.of Public Authorities which received more than 500-1000 RTI Applications</b>	03	
1	Directorate of Settlement & Land Records, Panaji		716
2	Forest Department		551
3	Collectorate South Goa District, Margao		504
<b>3</b>	<b>No.of Public Authorities which received more than 100-500 RTI Applications</b>	14	
1	Directorate of Food & Drugs Administration		161
2	Goa State Pollution Control Board		309
3	Electricity Department. Div.XVII Mapusa		116
4	The Sport Authority of Goa, Taleigao		108
5	Directorate of Agriculture, Tonca Caranzalem Goa.		211
6	Department of Environment		351
7	Directorate of Mines & Geology		228
8	Goa University		104
9	Directorate of Accounts Panaji		172
10	Department of Tourism		199
11	Commercial Tax Department		168
12	Directorate of Education		466
13	Captain of Ports		141
14	Office of the Commissioner & Employment		203
<b>4</b>	<b>No.of Public Authorities which received more than 50-100 RTI Applications</b>	16	
1	Directorate of Art & Culture		63
2	District Sessions Court, North Goa Panaji		50
3	Electricity Department, Ex. Enggr. Div.X(TRN) Ponda Goa		61
4	Department of Civil Supplies & Consumer Affairs		98

5	Directorate of Higher Education		56
6	Directorate of Technical Education		72
7	Electricity Deptt., Div. V, Bicholim Goa.		74
8	Goa State Infrastructure Development Corporation Ltd.		77
9	Directorate of Fire & Emergency Services, St. Inez Panaji Goa.		57
10	Department of Animal Husbandry & Veterinary Services		68
11	Directorate of Skill Development & Entrepreneurship		57
12	Directorate of Industries, Trade & Commerce		58
13	Goa Public Service Commission		85
14	Directorate of Archives & Archaeology		66
15	Goa State Information Commission		72
16	Goa State Commission for Women		75
<b>5</b>	<b>No.of Public Authorities which received more than 25-50 RTI Applications</b>	12	
1	Directorate of Planning, Statistics & Evaluation, Porvorim Goa		37
2	Department of Science, Technology & Environment		29
3	River Navigation Department		46
4	Institute of Public Assistance (Provedoria)		25
5	Inspectorate of Factories & Boilers		28
6	Goa Handicrafts, Rural & Small Scale Industries		41
7	Directorate of Sports & Youth Affairs		47
8	Directorate of Tribal Welfare		47
9	Directorate of Prosecution		34
10	Directorate of Civil Aviation		28
11	Institute of Psychiatry & Human Behaviour, Bambolim		46
12	Finance (Rev. Cont) Department, Secretariat		34
<b>6</b>	<b>No.of Public Authorities which received less than 25 RTI Applications</b>	44	

## 2017

Sr. No.	Name of Department	No. of Department	No. of Requests
<b>1</b>	<b>No.of Public Authorities which received more than 1000 RTI Applications</b>	04	
1.	Town & Country Planning Department		1075
2	Collectorate South Goa, Margao Goa		2792
3	Public Works Department		2650
4	Goa Police, Police Head Quarters, Panaji		3875



<b>2</b>	<b>No.of Public Authorities which received more than 500-1000 RTI Applications</b>	02	
1	Directorate of Settlement & Land Records, Panaji		773
2	Forest Department		600
<b>3</b>	<b>No.of Public Authorities which received more than 100-500 RTI Applications</b>	15	
1	Directorate of Food & Drugs Administration		153
2	Goa State Pollution Control Board		217
3	Office of the Commissioner, Labour & Employment, Panaji		143
4	Directorate of Accounts, Panaji		142
5	Directorate of Agriculture, Tonca-Caranzalem-Panaji		195
6	Directorate of Mines & Geology		242
7	Directorate of Vigilance		288
8	Commercial Tax Department		163
9	Directorate of Health Services, Campal, Panaji Goa		179
10	Goa Industrial Development Corporation		129
11	Goa Coastal Zone Management Authority(GCZMA)		296
12	Goa Medical College & Hospital, Bambolim		189
13	Co-operation Department		401
14	Directorate of Education		237
15	Department of Tourism		171
<b>4</b>	<b>No.of Public Authorities which received more than 50-100 RTI Applications</b>	13	
1	Directorate of Technical Education		57
2	Directorate of Sports & Youth Affairs		81
3	Goa State Infrastructure Development Corporation Limited (Finance Dept. Govt. of Goa)		78
4	Captain of Ports		100
5	River Navigation Department		82
6	Directorate of Higher Education		51
7	Institute of Psychiatry and Human Behavior		95
8	Directorate of Fire & Emergency services, St. Inez Panaji		53
9	Goa Public Service Commission		98
10	Directorate of Women & Child Development		92
11	Directorate of Social Welfare		99
12	Goa University		70
13	Goa Tourism Development Corporation Ltd.		52
<b>5</b>	<b>No.of Public Authorities which received more than 25-50 RTI Applications</b>	13	
1	Department of Civil Supplies & Consumer Affairs		47
2	Department of Animal Husbandry & Veterinary Services		35

3	Directorate of Tribal Welfare		32
4	Directorate of Art & Culture		39
5	Institute of Nursing Education, Bambolim Goa		50
6	District & sessions Court, North Goa, Panaji		30
7	Directorate of Planning, Statistics & Evaluation, Porvorim Goa		40
8	Directorate of Archives & Archaeology		39
9	Goa Handicrafts, Rural and Small Scale industries Dev. Corp. Ltd.,		27
10	Directorate of Industries, Trade & Commerce		39
11	Goa Board of Secondary & Higher Secondary Education Porvorim		43
12	The Sports Authority of Goa		39
13	Goa State Information Commission		49
<b>6</b>	<b>No.of Public Authorities which received less than 25 RTI Applications</b>	<b>66</b>	

## 2018

Sr. No.	Name of Department	No. of Department	No. of Requests
<b>1</b>	<b>No.of Public Authorities which received more than 1000 RTI Applications</b>	<b>2</b>	
1	Town and Country Planning Department		1118
2	Public Works Department		2297
<b>2</b>	<b>No.of Public Authorities which received more than 500-1000 RTI Applications</b>	<b>3</b>	
1	Department of Cooperation		501
2	Directorate of Settlement and Land Records		754
3	Forest Department		601
<b>3</b>	<b>No.of Public Authorities which received more than 100-500 RTI Applications</b>	<b>10</b>	
1	Captain of Ports		113
2	Goa Coastal Zone Management Authority		279
3	Goa University		132
4	Commercial Tax Department		127
5	Directorate of Agriculture and Krishi Bhavan		195
6	Directorate of Mines and Geology		216
7	Directorate of Foods & Drugs Administration		201
8	Directorate of Accounts		156
9	Goa State Pollution Control board		232
10	GSIDC		100
<b>4</b>	<b>No.of Public Authorities which received more than 50-100 RTI Applications</b>	<b>10</b>	
1	Directorate of Archives and Archaeology		57
2	Goa State Infrastructure Development Corporation		100

3	Directorate of Sports & Youth Affairs		76
4	Directorate of Higher Education		54
5	The Sports Authority of Goa		99
6	Goa Public Service Commission		72
7	Office of Executive Engineer		50
8	River Navigation Department		57
9	Directorate of Sports & Youth Affairs		76
10	Directorate of Archives & Archaeology		57
<b>5</b>	<b>No.of Public Authorities which received more than 25-50 RTI Applications</b>	11	
1	Directorate of Technical Education		47
2	Department of Animal Husbandry and Veterinary Services		42
3	Department of Environment		37
4	Directorate of Art and Culture		45
5	District and Session Court, North Goa		36
6	Goa Board of Secondary & Higher Secondary Education		31
7	Directorate of Planning , Statistics & Evaluation		29
8	Directorate of Tribal Welfare		25
9	Directorate of Technical Education		47
10	Directorate of Industries, Trade & Commerce		37
11	Directorate of Prosecution		30
<b>6</b>	<b>No.of Public Authorities which received less than 25 RTI Applications</b>	25	

### **2.3. AUHORITIES HAVING SINGLE PIO**

<b>(Compiled as per report received from Public Authority during the reporting year 2015)</b>			
<b>Sr. No.</b>	<b>Name of the Department</b>	<b>No. of requests received by PIO</b>	<b>No. of cases disposed</b>
1	Directorate of Prosecution	26	26
2	Directorate of Planning, Statistics & Evaluation, Porvorim Goa	26	23
3	Dept. of Science, Technology & Environment	29	29
4	Inspectorate of Factories & Boilers, Altinho, Panaji Goa	37	32
5	Department of Environment	283	283
6	Directorate of Official Language	15	15
7	Department of Sainik Welfare	04	04
8	Directorate of Mines & Geology, Panaji Goa	232	230
9	Dr. Dada Vaidya College of Education, Farmagudi, Ponda Goa.	09	09
10	Department of Animal Husbandry & Veterinary	63	63

	Services, Panaji Goa.		
11	Goa College of Architecture, Altinho	06	06
12	Goa State AIDS Control Society	01	01
13	Institute of Nursing Education, Bambolim Goa	4	4
14	Directorate of Accounts, Panaji	168	166
15	Directorate of Tribal Welfare	53	53
16	St. Xavier's College, Mapusa Goa	13	13
17	District Rural Development Agency, South Goa, Margao	08	08
18	Shree Damodar College of Commerce & Economics, Margao Goa	04	04
19	Dhempe College of Arts & Science, Miramar, Panaji Goa	13	12
20	Government Polytechnic, Mayem Bicholim Goa.-	03	03
21	Goa College of Music, Altinho, Panaji Goa	02	02
22	Narayan Zantye College of Commerce, Bicholim Goa	03	03
23	Gopal Gaonkar Memorial Goa Multi Faculty College, Dharbandora	05	05
24	Govt. College of Arts, Commerce, Quepem Goa	08	08
25	Directorate of Civil Aviation	26	26
26	S.S. Dempo College of Commerce & Economics	05	05
27	Inspectorate General of Prisons, Panaji	58	58
28	P.E. S. Ravi Naik college of Arts & Science, Farmagudi	25	23
29	Goa Dental College & Hospital, Bambolim Goa	16	16
30	Directorate of Industries , Trade & Commerce	89	89
31	Sant Sohirobanath Ambiye Govt. College of Arts & Commerce, Virnoda Pernem Goa	04	03
32	Goa Public Service Commission	112	111
33	CES College of Arts & Commerce, Cuncolim-Salcet Goa.	05	05
34	Captain of Ports	102	101
35	Directorate of Archives & Archaeology	79	80
36	Goa Rehabilitation Board	08	08
37	Goa State Commission for Backward Classes	05	04
38	Goa Institute of Public Administration & Rural Development, Ela Old Goa	09	09
39	Goa College of Art, Altinho, Panaji	05	05
40	Nirmala Institute of Education, Altinho Panaji	10	10
41	Goa State Information Commission	17	17
42	Office of the Ombudsman	-	-
43	Finance (Exp) Department, Secretariat	14	14
44	Goa College of Home Science, Campal Panaji	08	08
45	Goa State Commission for Women	56	56
46	Finance (Rev & Cont) Department, Secretariat	35	10

47	Department of Handicrafts, Textile & Coir	20	20
48	The Goa State Agricultural Marketing Board, Arlem Raia	23	23
<b>Total</b>		<b>1746</b>	<b>1703</b>

<b>(Compiled as per report received from Public Authority during the reporting year 2016)</b>			
<b>Sr. No.</b>	<b>Name of the Department</b>	<b>No. of requests received by PIO</b>	<b>No. of cases disposed</b>
1	Directorate of Planning Statistics & Evaluation	37	37
2	Dnyanprassarak Mandal's College & Research Centre, Assagao Bardez Goa	05	05
3	Goa Energy Development Agency, Saligao	05	05
4	M.E.S College of Arts & Commerce, Zuarinagar Goa	05	05
5	Department of Science, Technology & Environment	29	29
6	Directorate of Food & Drugs Administration	161	156
7	Goa State Pollution Control Board	309	272
8	Goa Forest Development Corporation Limited, Panajii Goa	14	14
9	Department of Sainik Welfare	03	02
10	District Sessions Court, North Goa, Panaji	50	24
11	River Navigation Department	46	46
12	Electricity Department, Ex. Engg., Div.X (TRN), Ponda Goa	61	52
13	Electricity Department, Div. IX, (EHV) Tivim Goa	18	18
14	Electricity Dept. Div.XIII, Kadamba Plateau, P.O. Old Goa	20	20
15	Institute of Public Assistance (Provedoria), Mala Panaji Goa	25	25
16	Goa State Social Welfare Board, Panaji	3	3
17	Electricity Department, Div.XVII Mapusa	116	116
18	The Sports Authority of Goa, Taleigao	108	103
19	Inspectorate of Factories & Boilers, Altinho, Panaji Goa	28	27
20	Goa Handicrafts, Rural & Small Scale Industries Dev. Corp. Ltd.	41	41
21	Department of Environment	351	351
22	Department of Civil Supplies & Consumer Affairs	98	97
23	Directorate of Official Language	11	11
24	Directorate of Sports & Youth Affairs	47	47

25	Goa Khadi & Village Industries Board	8	8
26	Directorate of Technical Education	72	72
27	Electricity Department, Div.V, Bicholim Goa	74	46
28	Goa State Infrastructure Development Corporation Limited [Fin. Department, Govt. of Goa]	77	77
29	Parvatibai Chowgule College of Arts & Science Autonomous, Margao	12	8
30	Goa College of Pharmacy, Panaji-Goa	10	10
31	Goa State Council for Science & Technology, (GSCST) Saligao	2	2
32	Directorate of Mines & Geology, Panaji Goa	229	228
33	Department of Printing & Stationery, Panaji Goa.	13	12
34	District & Sessions Court, South Goa, Margao	23	23
35	Dr. Dada Vaidya College of Education, Farmagudi Ponda Goa.	05	05
36	Department of Animal Husbandry & Veterinary Services	68	68
37	Goa College of Architecture, Altinho	05	05
38	Goa State AIDS Control Society	04	04
39	Institute of Nursing Education, Bambolim Goa	07	07
40	St. Xavier's College, Mapusa Goa-Directorate of Hr. Education	06	06
41	District Rural Development Agency, DRDA South Goa Margao	17	17
42	Shree Damodar College of Commerce & Economics, Margao	06	06
43	Dhempe College of Arts & Science, Miramar	06	07
44	Directorate of Prosecution	34	27
45	Government Polytechnic, Mayem Bicholim Goa-DTE	04	04
46	Goa College of Music, Altinho, Panaji Goa	07	07
47	Narayan Zantye College of Commerce, Bicholim Goa	03	03
48	Gopal Gaonkar Memorial Multi Faculty, College Dharbandora Goa	03	03
49	Govt. College of Art, Science & Commerce, Quepem Goa	08	08
50	Directorate of Civil Aviation	28	28
51	S. S. Dempo College of Commerce & Economics, Cujira	07	07
52	Inspectorate General of Prisons, Panaji	23	23
53	P.E.S. Ravi Naik College of Arts & Science, Famagudi-Dte. Of Hr. Education	06	06
54	Goa Dental College & Hospital, Bambolim	12	12
55	Directorate of Industries, Trade & Commerce	58	58

56	Sant Sohirobanath Ambiyé Govt. College of Arts & Commerce, Virnoda Pernem Goa	07	07
57	Goa Public Service Commission	85	85
58	CES College of Arts & Commerce, Cuncolim Salcet Goa	06	06
59	Captain of Ports	141	140
60	Directorate of Archives & Archaeology	66	66
61	Goa Rehabilitation Board	07	07
62	Goa State Commission for Backward Classes	07	07
63	Goa Institute of Public Administration & Rural Development, Ela Old Goa	03	03
64	Nirmala Institute of Education, Altinho, Panaji	03	03
65	Goa State Information Commission	72	72
66	Office of the Ombudsman, Panaji	-	-
67	Finance (Exp) Department, Secretariat, Porvorim	12	12
68	Goa College of Home Science, Campal Panaji	08	08
69	Goa State Commission for Women	75	75
70	Finance (Rev. & Cont.) Department, Secretariat	34	10
71	Government Polytechnic, Altinho, Panaji Goa	09	09
72	Department of Handicrafts, Textile & Coir	16	16
73	Goa State Agricultural Marketing Board, Arlem, Margao Goa	19	19

<b>(Compiled as per report received from Public Authority during the reporting year-2017)</b>			
<b>Sr. No.</b>	<b>Name of the Department</b>	<b>No. of requests received by PIO</b>	<b>No. of cases disposed</b>
1	2	3	4
1	Fr. Agnel College of Arts & Commerce, Pilar Goa	01	01
2	Directorate of Technical Education, Porvorim Goa	57	57
3	Goa State Social Welfare Board, Panaji	02	02
4	VVM's Shree Damodar College of Commerce & Economics, Margao Goa	Nil	Nil
5	Directorate of Sports & Youth Affairs	81	81
6	Parvatibai Chowgule College of Arts & Science, Autonomous, Margao	05	05
7	Dnyanprassarak Mandal's College & Research Centre, Assagao Bardez Goa	01	01
8	District Sessions Court, South Goa Margao	15	15
9	Directorate of Food & Drugs Administration	153	150
10	Department of Civil Supplies & Consumer Affairs	47	47

11	Institute of Public Assistance (Provedoria), Mala Panaji Goa	11	11
12	Goa Khadi & Village Industries Board	04	04
13	Department of Civil Supplies & Consumer Affairs	35	35
14	Government High School Mulgao , Bicholim Goa	02	02
15	Goa State Aids Control Society	01	01
16	Goa State Pollution Control Board	217	188
17	Department of Sainik Welfare	02	02
18	Directorate of Tribal Welfare	32	32
19	Shri Gopal Gaonkar Memorial Goa Multi Faculty College, Dharbandora	02	02
20	Department of Science, Technology & Environment	20	20
21	Narayan Zantye College of Commerce, Bicholim Goa	01	01
22	Department of Printing & Stationery, Panaji Goa.	20	18
23	Directorate of Accounts, Panaji-Goa	142	138(+04)= 142
24	S. S. Dempo College of Commerce & Economics, Cujira	01	01
25	Goa State Infrastructure Development Corporation Limited (Finance Dept. Govt. of Goa)	78	78
26	Goa College of Music, Altinho, Panaji Goa	Nil	Nil
27	Captain of Ports Department	100	98
28	Goa College of Art, Altinho	11	11
29	River Navigation Department	82	82
30	Institute of Nursing Education, Bambolim Goa	05	05
31	Goa College of Architecture, Altinho, Panaji Goa	06	06
32	Government Polytechnic, Altinho, Panaji Goa.	20	20
33	District & Sessions Court, North Panaji	30	09
34	Goa Energy Development Agency, Saligao, Bardez Goa	01	01
35	District Rural Development Agency, South Goa, Margao	08	08
36	Goa Dental College & Hospital, Bambolim Goa	05	05
37	Rosary College of Commerce & Arts, Navelim	04	04
38	Goa Institute of Public Administration & Rural Development, Ela, Old Goa	01	01
39	Directorate of Official Language	09	09
40	Goa Meat Complex Ltd., Panaji Goa	19	18
41	GVM's Dr. Dada Vaidya College of Education, Ponda	03	03
42	Directorate of Accounts, South Brach, Margao Goa	14	14



43	Goa State Commission for Backward Classes	07	07
44	Directorate of Small Savings & Lotteries	06	06
45	DCT's Dhempe College of Arts & Science	07	06
46	Goa College of Pharmacy, Panaji-Goa	01	01
47	Goa State Commission for Protection of Child Rights	06	05
48	Directorate of Planning, Statistics & Evaluation, Porvorim Goa	40	40
49	Nirmala Institute of Education	02	02
50	Department of Legal Metrology, Porvorim Goa	--	--
51	Govind Ramnath Kare College of Law	04	04
52	Directorate of Archives & Archaeology	39	38
53	St. Xavier's College Mapusa, (Hr. Education)	06	06
54	Directorate of Prosecution, Panaji Goa	18	16
55	Govt. College of Art, Science & Commerce, Sankhali Goa, Dept. of Hr. Education)	02	02
56	Government College of Arts, Science & Commerce, Quepem Goa	07	07
57	Directorate of Health Services, Campal, Panaji Goa	179	179
58	Goa College of Home Science	01	01
59	Dept. of Information & Publicity	04	04
60	Goa Education Development Corporation	11	08
61	Department of Handicrafts Textile & Coir	04	04
62	Goa Industrial Development Corporation	129	118
63	CES College of Arts & Commerce, Cuncolim Goa	01	01
64	Goa State Horticultural Corporation Ltd., Caranzalem Goa	20	20
65	Goa Handicrafts, Rural and Small Scale Industries Dev. Corp. Ltd.	27	27
66	Goa Forest Development Corporation Ltd., Panaji Goa	08	08
67	Inspectorate of Factories & Boilers, Altinho, Panaji Goa.	24	24
68	Government Polytechnic Mayem Bicholim Goa.	02	02
69	Govt. College of Arts, Science & Commerce, Khandola Marcela Goa.	03	03
70	Goa Coastal Zone management Authority (GCZMA)-Department of Environment	296	296
71	Directorate of Industries, Trade & Commerce	39	39
72	Goa Rehabilitation Board	02	02
73	Goa Public Service Commission	98	97
74	Goa Board of Secondary & Higher Secondary Education Porvorim	43	36
75	The Sports Authority of Goa	39	37

76	GVM's G. G. Poy Raiturcar College of Commerce and Economics	01	01
77	Goa State Information Commission	49	48
78	Goa College of Engineering, Farmagudi	17	17
79	Office of Administrative Tribunal	11	11
80	Directorate of Museums, Panaji	02	02
81	Finance (Exp) Department	05	05
82	Goa Sarva Shiksha Abhiyan	06	06
83	Goa Konkani Akademi, Panaji	03	03
84	Dnyan Prabodhini Mandal's Shree Mallikarjun College of Arts & Commerce, Canacona	03	03
85	Sant Sohirobanath Ambiye Govt. College of Arts & Commerce, Virnoda, Pernem Goa-403 705	Nil	Nil
86	Goa State Urban Development Agency	23	23
87	The Goa State Agricultural Marketing Board, Arlem, Raia, Salcet Goa	17	17
88	Finance (Rev. & Cont.) Department	21	10
89	Goa Tourism Development Corporation Ltd.,	52	10

<b>(Compiled as per report received from Public Authority during the reporting year-2018)</b>			
<b>Sr. No.</b>	<b>Name of the Department</b>	<b>No. of requests received by PIO</b>	<b>No. of cases disposed</b>
1	2	3	4
1	Directorate of Technical Education	47	47
2	Goa State Social Welfare Board	-	-
3	Institute of Nursing Education	4	4
4	District & Sessions Court, South Goa	10	10
5	St. Xavier College	12	11
6	Goa Khadi Village Industries Board	7	7
7	Directorate of Archives & Archeology	57	58
8	GSIDC	100	100
9	Captain of Ports	113	86
10	Dhempe College of Arts & Science	9	8
11	District Rural Development Agency, South Goa	10	10
12	Parvatibai Chowgule College of Arts & Science	11	11
13	Directorate of Sport & Youth Affairs	76	
14	Directorate of Tribal Welfare	25	25
15	River Navigation Department	57	57
16	Goa Energy Development Agency	2	2
17	Goa State Pollution Control Board	232	222
18	Department of Legal Metrology	10	-
19	Fr. Agnel College of Arts & Commerce	2	2
20	Directorate of Planning, Statistics & Evaluation	29	29

21	Executive Engineer PWD, Bicholim	50	50
22	Goa Board of Secondary & Higher Secondary Education	31	27
23	Institute of Public Assistance	9	9
24	Goa Public Service Commission	72	72
25	Narayan Zantye College of Commerce	7	7
26	Directorate of Accounts, South Goa	22	22
27	The Sports Authority of Goa	99	97
28	Goa Coastal Zone Management Authority	279	279
29	Goa Konkani Akademi	-	-
30	Nirmala Institute of Education	8	8
31	Department of Animal Husbandry & Veterinary	42	41
32	Department of Science, Technology & Environment	37	37
33	District & Sessions Court, North Goa	36	33
34	Goa Forest Development Corporation	7	7
35	Department of Sainik Welfare	7	-
36	Goa Institute of Public Administration & Rural Development	3	3
37	Department of Printing & Stationary	19	18
38	VVM's Shree Damodar College of Commerce & Economics	8	8
39	Goa Handicraft, Rural and Small Scale Industries Development Corporation Ltd.	20	20
40	Goa Rehabilitation Board	4	4
41	Directorate of Prosecution	30	24
42	Directorate of Industries, Trade & Commerce	37	37
43	Directorate of Official Language	5	5
44	Administrative Tribunal	16	16
45	District Rural Development Agency, North Goa	5	5

#### **2.4 TABLE SHOWING AUTHORITIES WITH MORE PIOs.**

<b>Showing sub-set of Department having more No. of PIOs- 2015</b>			
<b>Sr. No.</b>	<b>Name of the Public Authority</b>	<b>No. requests received by PIO</b>	<b>No. of cases disposal</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1	State Directorate of Craftsmen Training- Head Office Panaji- <b>Total 11 PIOs</b>	94	93
2	Goa University, Taleigao - <b>Total 52 PIOs</b>	146	139
3	Water Resources Department- <b>Total 26 PIOs</b>	437	437
4	Department of Tourism - <b>Total 02 PIOs</b>	190	190
5	Commercial Tax Department - <b>Total 06 PIOs</b>	168	150
6	Institute of Psychiatry and Human Behaviour,	43	25

	<b>Bambolim- Total 02 PIOs</b>		
7	Directorate of Education- <b>Total 06 PIOs</b>	406	406
8	Collectorate South Goa District, Margao- <b>Total 19 PIOs</b>	2079	2023
9	Labour & Employment- <b>Total 05 PIOs</b>	159	159
<b>Total 09 Departments</b>		<b>3722</b>	<b>3622</b>

<b>Showing sub-set of Department having more No. of PIOs 2016</b>			
<b>Sr. No.</b>	<b>Name of the Public Authority</b>	<b>No. of requests received by PIO</b>	<b>No. of cases disposal</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1	1. Directorate of Art & Culture , 2. Central Library- <b>Total 02 PIOs</b>	63	33
2	Shri Venancio Furtado, Directorate of Settlement & Land Records- <b>Total 14 PIOs</b>	716	716
3	Shri Ulhas B. Pai Kakode, Director of Agriculture- <b>Total 13 PIOs</b>	211	211
4	Directorate of Higher Education- <b>Total 02 PIOs</b>	56	56
5	Shri Ajay Saxena, IFS, Forest Department, - <b>Total 09 PIOs</b>	551	413
6	Directorate of Fire & Emergency Services, St. Inez, Panaji Goa.- <b>Total 04 PIOs</b>	57	57
7	Goa University- <b>Total 52 PIOs</b>	104	98
8	Directorate of Accounts Panaji- <b>Total 02 PIOs</b>	172	161
9	Directorate of Tribal Welfare- <b>Total 02 PIOs</b>	47	47
10	Department of Tourism, - <b>Total 02 PIOs</b>	199	199
11	Directorate of Skill Development & Entrepreneurship- <b>Total 11 PIOs</b>	57	56
12	Commercial Tax Department- <b>Total 06 PIOs</b>	168	160
13	Institute of Psychiatry & Human Behavior, Bambolim- <b>Total 02 PIOs</b>	46	27
14	Directorate of Education- <b>Total 04 PIOs</b>	466	466
15	Collectorate South Goa District, Margao- <b>Total 09 PIOs</b>	504	493
16	Labour & Employment- <b>Total 05 PIOs</b>	203	203
17	Public Works Department, Altinho- <b>Total 43 PIOs</b>	2,336	2,141
	<b>Total 17 Departments</b>	<b>5956</b>	<b>5537</b>

<b>Showing sub-set of Department having more No. of PIOs 2017</b>
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Sr No	Name of the Public Authority	No. of requests received by PIO	No. of cases disposal
<b>1</b>	<b>2</b>	<b>4</b>	<b>5</b>
1	Office of the Commissioner, Labour & Employment, Panaji- <b>Total 05 PIOs</b>	143	143
2	Directorate of Art & Culture- <b>Total 02 PIOs</b>	39	24
3	Directorate of Agriculture, Krishi Bhavan, Tonca Caranzalem Goa <b>Total 13 PIOs</b>	195	195
4	Directorate of Skill Development & Entrepreneurship- <b>Total 11 PIOs</b>	34	33
5	Directorate of Settlement & Land Records, Panaji - <b>Total 14 PIOs</b>	773	773
6	Directorate of Mines & Geology - <b>Total 06 PIOs</b>	242	230
7	Directorate of Vigilance- <b>Total 03 PIOs</b>	288	220
8.	Directorate of Higher Education- <b>Total 02 PIOs</b>	51	51
9	Institute of Psychiatry & Human Behaviour, Bambolim Goa - <b>Total 02 PIOs</b>	95	79
10	Commercial Tax department - <b>Total 09 other PIOs</b>	163	157
11	Department of Information Technology - <b>Total 03 PIOs</b>	07	05
12	Directorate of Fire & Emergency Services, St. Inez Panaji- <b>Total 04 PIOs</b>	53	52
13	Town & Country Planning Department- <b>Total 16 PIOs</b>	1075	861
14	Forest Department - <b>Total 09 other PIOs</b>	600	420
15	Collectorate South Goa, Margao - <b>Total 29 PIOs</b>	2792	2726
16	Public Works Department - <b>Total 47 PIOs</b>	2650	2504
17	Directorate of Women & Child Development - <b>Total 06 PIOs</b>	92	77
18	Goa Medical College & Hospital, Bambolim- <b>Total 28 PIOs</b>	189	168
19	Directorate of Social Welfare- <b>Total 06 PIOs</b>	99	76
20	Goa University - <b>Total 52 PIOs</b>	70	65
21	Co-operation Department - <b>Total 13 PIOs</b>	401	390
22	Goa Police, Police Head Quarters, Panaji - <b>Total 34 PIOs</b>	3875	3672
23	Directorate of Education - <b>Total 03 PIOs</b>	237	231
24	Department of Tourism- <b>Total 02 PIOs</b>	171	171

**Showing sub-set of Department having more No. of PIOs 2018**

Sr No	Name of the Public Authority	No. of requests received by PIO	No. of cases disposal
1	2	4	5
1	Directorate of Higher Education – <b>2 PIO's</b>	54	54
2	Directorate of Settlement & Land Records – <b>14 PIO's</b>	1136	1136
3	Directorate of Art & Culture – <b>2 PIO's</b>	45	25
4	Town & Country Planning – <b>15 PIO's</b>	1118	984
5	Goa University – <b>52 PIO's</b>	132	114
6	Cooperation Department – <b>13 PIO's</b>	501	441
7	Publics Works Department – <b>43 PIO's</b>	2297	2173
8	Commercial Tax Department – <b>9 PIO's</b>	127	106
9	Directorate of Agriculture, Krishi Bhavan – <b>13 PIO's</b>	195	195
10	Directorate of Mines & Geology – <b>6 PIO's</b>	216	207
11	Directorate of Foods & Drugs Administration – <b>2 PIO's</b>	201	201
12	Directorate of Accounts - <b>2 PIO's</b>	156	155
13	Forest Department – <b>11 PIO's</b>	601	517
14	Goa Meat Complex Ltd – <b>3 PIO's</b>	17	13
15	Dnyanprassarak Madal College and Research Centre – <b>2 PIO's</b>	20	19
16	Commercial Tax Department – <b>9 PIO's</b>	127	106

## **CHAPTER – 3**

### **SET OF PROFORMAS**

The Right to Information (RTI) Act 2005, under Section 25 indicates that Public Authorities will provide “Inputs” to GSIC required for the preparation of Annual Report on the Implementation of RTI Act in the State.

For this reason, every Department; Secretariat, Semi Government / Autonomous bodies, and Institutions of this State are required to compile information pertaining to their Department / Office and all its subordinate Officers in prescribed form.

After 9 years of RTI implementation, modified new proforma has been introduced and the old proforma discontinued. This is a dynamic process and the new proforma will help to monitor the working of the Department / Semi Government / Autonomous bodies / Colleges / Institution in respect of RTI implementation.

The first input for Annual Report has to come from PIOs. Sometimes PIO are transferred and the Annual Returns are left unattended. Not all the staff in the Department / Office are aware of need of submission of the quarterly on annual report to the GSIC. At the end of the year many Department keep asking for the format of blank proforma . Many are late to submit their Annual Returns, The responsibility lies on PIO.

After 9 years, it is also time to discontinue the practice of quarterly reports. Henceforth PIO/FAA need to send only half yearly and Annual report.

The report of Director and Secretary may be submitted on yearly basis.

The GSIC accordingly solicits the Annual Returns from all the Public Authorities in the new prescribed proforma in time, i.e. by end of September for half yearly report and in the month of March for Annual Report.

The following are the new Performa prescribed for submission to GSIC to be submitted by 30<sup>th</sup> March of every year by concerned Public Authority as Annual Returns.

- 3.1 Performa No. I:- The details of RTI Applications received, disposed off related fees collected to be signed by PIO of the concerned Department / Officers.
- 3.2 Performa No. IA:- The details of RTI Appeal preferred to FAA / CIC and outcome of 1<sup>st</sup> and 2<sup>nd</sup> Appeal. Proforma No. 1 and 1A to be signed PIO.
- 3.3 Performa No. II:- The appeals filed and disposed off by FAA under RTI Act. FAA to maintain Register for column No. 7 and its details.
- 3.4 Performa No. IIA:- Number of Penalty imposed and recovered from PIO. A Proforma II and Proforma II A to be signed by FAA.
- 3.5 Performa No. III:- Shows the list of the Public Authorities which have complied with the provisions of Section 4 (1) of the RTI Act, to be signed by Director (Public Authority) once in a year.
- 3.6 Performa No. IIIA:- The table shows the Public Authority / and its web address and no. of pages for RTI information whether complied with the provisions of Sec 4(1) of the RTI Act to be signed by Secretary once in a year.
- 3.7 Performa No. IV:- Showing the list of Gazette Notifications for PIO's + APIO's and status of their Annual Returns to GSIC to be signed by Directors (Public Authorities) once in a year.
- 3.8 Performa No. IVA:- The table showing the list of all Departments and their PIO's etc in the Secretariat which is to be signed by Secretary Personnel.
- 3.9 Performa No. V:- Information pertaining of the appointment of First Appellate Authority names of the Department statement regarding the appointment of First Appellate Authority is to be signed by Director (Public Authority).
- 3.10 Performa No VI:- The names of the Public Authorities which have maintained all records duly catalogued and index under Sec 4(1)(a).
- 3.11 Performa No. VII:- The training programme attended by of PIO's as per Sec 26(1).



PROFORMAS PRESCRIBED FOR SUBMISSION ON SCIC								
PROFORMA-I								
Statement showing the details of RTI Application received, disposed off, related fees collected								
1	2	3	4	5	6	7	8	9
Na me of the Department	Name of the Public Authority	Names/Designation of the PIO	No. of RTI Application received by PIO during calendar year	No .of application where the information is provided within statutory period of 30 days	No. of application where information is rejected quoting the relevant provisions of the RTI Act	No. of application where no reply is communicate	Total Col (5+6+7+)	Amount of charges collected u/s 7(3) towards the supply of information (in Rs.)

**Signed by PIO**

### 3.2

PROFORMA PRESCRIBED FOR SUBMISSION TO SCIC										
PROFPRMA -1 A										
Statement showing the details of RTI appeals preferred to PIO/FAA outcome of 1 <sup>st</sup> Appeal										
1	2	3	4	5	6	7	8	9	10	11
Name of the Department	Name of the Public Authority	Names/Designation of PIO	No. of Application received by PIO during calendar year	Names /Designation of the FAA	No. of first appeals filed during the year	No. of appeals allowed by First Appellate Authority	No. of FAA order complied with	Out of Col. No.6 how many 2 <sup>nd</sup> appeal filed during the year	No. of 2 <sup>nd</sup> appeal direction received	No. of 2 <sup>nd</sup> appeal complied

**Signed by PIO**

### 3.3

<b>PROFORMA –II (FAA’S Work)</b>						
Statement showing the appeals filed and disposed off by the First Appellate Authority, under the RTI Act.						
<b>Name of the Department</b>	<b>Name of the Public Authority</b>	<b>Names &amp; Designation of the First Appellate Authority</b>	<b>No. of First appeals filed during calendar year</b>	<b>No. of appeals disposed off</b>	<b>No. of appeals where no decision is taken (Pending)</b>	<b>No. of 2<sup>nd</sup> Appeal notices received during calendar year</b>
1	2	3	4	5	6	7

**Signed by FAA**

**Note:-** Register to be maintained for  
col.No. 7

## 3.4

<b>PROFORMA - II A</b>					
Statement showing the penalty received charged and recovered from PIO					
<b>Name of the Department</b>	<b>Name of the Public Authority</b>	<b>Name &amp; Designation of Head of Department</b>	<b>No. of Penalty order where penalty received<sup>1</sup> from GSIC during the calendar year</b>	<b>No. of Penalty order where penalty is charged</b>	<b>No. of Penalty orders received from GSIC where penalty is recovered from PIO</b>
1	2	3	4	5	6

**Signed by FAA**

<b>PROFORMA – III</b>						
Statement showing the list of the Public Authorities complied with the provisions of section 4(1) of the RTI Act						
<b>Name of the Department</b>	<b>Name of Director</b>	<b>Web add</b>	<b>u/s 4, URL for main RTI page</b>	<b>Approx, No. of pages for RTI information u/s 4</b>	<b>Date of Last updation of the RTI information published u/s 4</b>	<b>Reason for non compilation or no web pages for RTI</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>

**Director**  
**(Public Authority)**

### 3.6

<b>PROFORMA –III-A</b>						
Statement showing the list of the Public Authorities which have complied with the provisions of section 4(1) of the RTI Act						
Name of the Public Authority:-						
<b>Name of the Department</b>	<b>Name of Secretary to Govt. Department</b>	<b>Web address of Website</b>	<b>u/s 4, URL for main RTI page</b>	<b>Approx, No. of pages for RTI information</b>	<b>Date of Last updation of the information published u/s 4</b>	<b>Reasons for non compilation or no web pages for RTI</b>
1	2	3	4	5	6	7

**Secretary**

<b>PROFORMA -IV</b>				
Statement showing the list of Gazette notification for PIO's + APIO's and status of their Annual Returns of SCIC				
Name of the Department :-				
Name of the Director :-				
<b>Sr.No.</b>	<b>Designation of PIOs</b>	<b>Name of PIOs present</b>	<b>Gazette notification if PIO name has changed during calendar year under report</b>	<b>Has the PIO filed last annual returns to SCIC in time</b>
1	2	3	4	5

**To be signed by Director**  
**(Public Authority)**

<b>PROFORMA –IV –A</b>							
Statement showing the list of all Department s and their PIOs etc in this Secretariat							
Name of the Public Authority:-							
<b>Sr.No.</b>	<b>Name of the Department</b>	<b>Name of the Secretary (Public Authority)</b>	<b>Designation of PIO</b>	<b>Name of PIOs</b>	<b>Gazette notification if PIO name has changed during calendar year under report</b>	<b>If vacant as on 01/01/2015</b>	<b>Has the PIO filed last annual Returns to SCIC in time</b>
1	2	3	4	5	6	7	8

**To be signed by Chief Secretary**



### 3.9

<b>PROFORMA –V</b>			
Information pertaining of the appointment of First Appellate Authority names of the Department Statement regarding the appointment of First Appellate Authority			
Name of the Department:-			
Name of the Director:			
<b>Sr. No.</b>	<b>Designation of the First Appellate Authority</b>	<b>Name of the First Appellate Authority</b>	<b>If vacant on 01/01/2018</b>
1	2	3	4

**To be signed by Director (PA)**

### 3.10

<b>PROFORMA –VI</b>				
Statement showing the name of the Public Authorities which has maintained all records duly catalogued and index [ Section 4(1) (a) ]				
Name of the Department:-				
<b>Sr. No.</b>	<b>Designation of PIO</b>	<b>Has finished indexing (approx. 80% or more)</b>	<b>Has PIO file inspected during last 3 years</b>	<b>Has FAA If yes give month/year</b>
1	2	3	4	5

**To be signed by Director**

### 3.11

<b>PROFORMA –VII</b>			
Statement showing the Programme of Training of PIO's [ Section 26 (1)]			
Sr.No	No. of PIOs on the Secretariat	How many Trained during the year	How many remained untrained at the end of the year
1	2	3	4

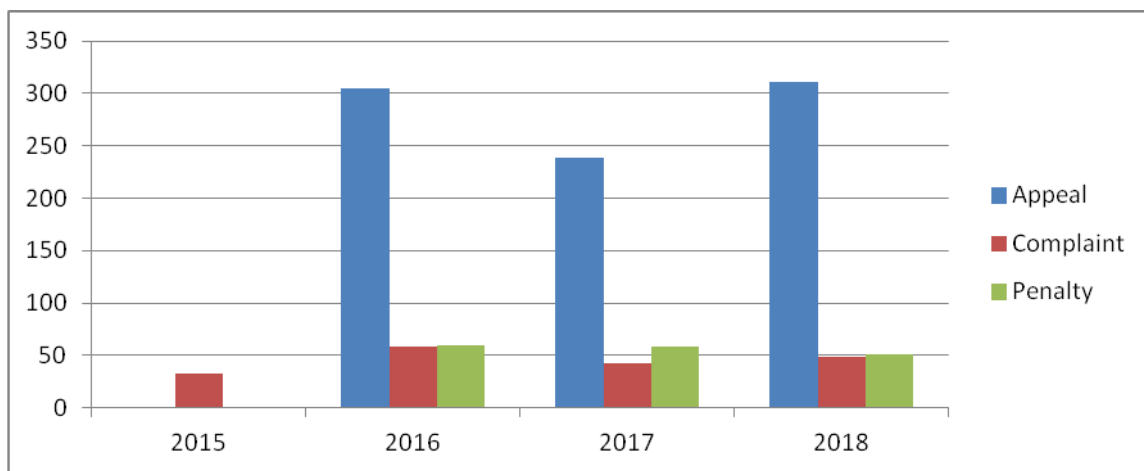
**To be signed by Secretary  
Personal**

## **CHAPTER – 4**

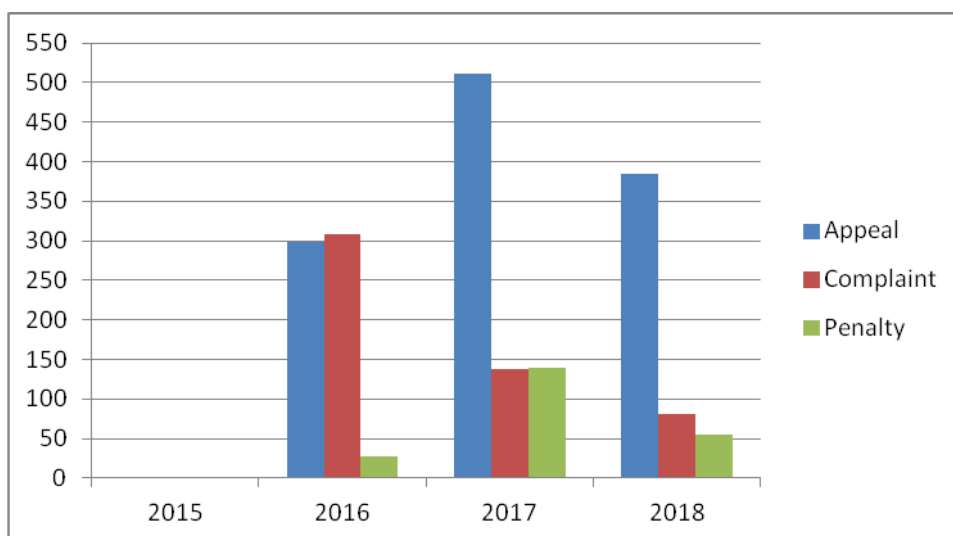
### **COMMISSION AT GLANCE**

**4.1.** This chapter presents an overview of the Goa State Information Commission, the appeal, complaint received and disposed. Also the Penalty imposed on the PIO during the reporting year 2015-2018.

Category	Received	Disposed
<b>For the Year 2015</b>		
Appeal	0	0
Complaint	33	0
Penalty	0	0
<b>For the year 2016</b>		
Appeal	305	180+107+11=298
Complaint	59	136+20+152=308
Penalty	60	19+8=27
<b>For the year 2017</b>		
Appeal	239	137+264+111=512
Complaint	42	42+46+50=138
Penalty	58	41+85+14=140
<b>For the year 2018</b>		
Appeal	311	94+139+151=384
Complaint	49	28+21+32=81
Penalty	51	6+42+7=55



**Figure 1 Received cases for the year 2015-2018**



**Figure 2: Disposed cases for the year 2015 to 2018**

#### **4.2.OBSERVATIONS OF COMMISSION & RECOMMENDATIONS THEREON U/S 25 OF THE RTI ACT 2005**

In the course of hearing of the cases and in its day to day functioning of the commission several practices and procedures and lapses were noticed. Such deficiencies are not in conformity with the intent of the act. Hence the observations of the commission and the recommendations are given as is required u/s 25 of the RTI Act.

## **1. REGARDING COMMISSION:**

### **i) OBSERVATIONS:**

The commission undertakes quasi judicial functions. At times unruly persons create chaos either during the hearing or otherwise. With a view to control such elements requisition was sent to depute security personnel through Home department. However such requirements are not yet attended to though such security is provided to the offices much below the rank of this commission.

### **RECOMMENDATIONS:**

With a view to avoid unwanted incidents and to maintain dignity of commission, it is recommended that adequate security arrangements are made at the commission by deputing adequate person.

### **ii) OBSERVATIONS:**

U/s 16(5)(a) and (b) the status of the State Chief Information Commissioner (SCIC) and State information Commissioner is at par with Election Commissioner and Chief Secretary of the State respectively from the information received from Protocol department of Government of Goa no order of precedence is issued by the government though other states have already issued such orders. This is resulting in embarrassment to the commissioners during public functions.

### **RECOMMENDATIONS:**

Instructions therefore be issued to department of protocol to issue order of precedence to include the SCIC and SICS.

### **iii) OBSERVATIONS:**

Section 15(4) of the RTI Act requires the commission to function as an autonomous body without being subjected to directions by any other authority. In several cases it is seen that the guidelines and orders issued by the State Government pertaining to autonomous bodies are not implemented on a ridiculous reason that commission is a statutory body. It needs to be clarified that any body can have autonomy only if the statute constituting it provides autonomy for functioning. In other words only a statutory body can be

autonomous. Such approach of government officers is therefore wrong and causes hindrance in functioning of the commission.

**RECOMMENDATIONS:**

It is therefore recommended that the commission should be equipped with efficient staff having knowledge of the functioning of autonomous bodies and the officers concerned be trained regarding the functioning of the autonomous bodies.

**iv) OBSERVATIONS:**

The commission is functioning since 2006 and over the years it has generated numerous files, which also require furniture and fixtures. Over the years the files, fixtures furniture's have piled up and the space at present is found inadequate. A representation is made to the government to move the old files to archives department or at any other appropriate office.

**RECOMMENDATIONS:**

It is therefore recommended that additional area be made available, and pending such arrangements, the proposal of the commission to move the old files of this commission to the archives be considered on urgent bases.

**2) REGARDING AUTHORITIES:**

**i) OBSERVATIONS:**

It is invariably seen that the PIO's have developed a tendency to deal with the RTI applications at the time when the period u/s 7(1) expires. Section 7(3) of the RTI Act mandates demand for payment of fees and consequential extension of time are overlooked. Such a practice thereafter results in dispensation of free information to seeker resulting in loss of public revenue.

**RECOMENDATIONS**

It is therefore recommended that the PIO should be trained and instructed to strictly comply with section 7(3) of the RTI Act on receipt of any request u/s 6(1).

It is further recommended that appropriate measures to be taken against concerned PIO for non following the procedure for collecting fees u/s 7(3) and resulting in information free of cost.

ii) OBSERVATIONS:

Section 19(1) of the RTI act requires the First Appellate Authority (FAA) to deal with first appeal and dispose the same within 45 days including the extended period. It is seen in several cases that the FAA are not concerned with such appeals and the same are not disposed within such statutory period.

RECOMMENDATIONS:

It is therefore recommended that such lapse on the part of FAA should be held as a dereliction of duties of the FAA and appropriate action as per the service conditions should be recommended.

iii) OBSERVATIONS:

In several cases the information is denied to the seeker on the ground of non availability or misplacement of files. The FAA, who is the officer senior to the PIO, is silent to such pleas. By the time the parties approach the commission and seek order of inquiry into loss of files substantial time passes.

RECOMMENDATIONS:

It is therefore recommended that in such cases, the FAA itself, as a senior officer of the authority, should order the inquiry in missing file when such fact is made know to him during first appeal.

iv) OBSERVATIONS:

In the case of authorities like Planning & Development Authorities (PDA) it is seen that the Chairman appointed by Government is designated as First Appellate Authority (FAA). Section 19(1) of RTI Act requires the FAA to be an officer senior to the rank that of the PIO. Chairman of PDA being not its officer cannot be appointed as PIO.

RECOMENDATIONS

It is therefore recommended that the practice of appointing the chairman of PDA as FAA should be discontinued and an officer senior in rank of the PIO be appointed as FAA



### **4.3. IMPORTANT JUDGEMENTS :**

The Goa State Information Commission which is constituted under the RTI Act, 2005 adjudicates upon the RTI Complaints and RTI appeals filed before it. During the hearing of these cases, various lacunae and shortfalls of Government Departments come to the notice of this Commission. Attempts are made by this Commission to put things in order by way of directions through its judgments.

The following are some important Judgments passed by the Hon'ble Goa State Chief Information Commissioner, **Shri. Prashant S. P. Tendolkar.**

#### **1. Appeal No.270/SIC/2011**

The Comunidade of Mapusa,  
Having its Office at Comunidade Building,  
Horta Paroquial, Mapusa,  
Bardez –Goa  
Through its attorney  
Shri A. B. Braganca, Of Mapusa,  
Bardez-Goa.

.....Appellant.

V/s

1) The Public Information Officer,  
Office of the Administrator of  
Comunidades (North Zone)  
Court Junction,  
Mapusa, Bardez-Goa.

2) Mr.Narayan P. Parab,  
Dangui Colony,  
Alto Duler,  
Mapusa –Goa.

.....Respondents.

### **J U D G M E N T**

1.By this appeal the appellant assails the order, dated 26<sup>th</sup> September 2011, passed by the Additional Collector-II and First Appellate Authority (FAA) in Case no.RTI/AC-II/09/11/APL/151,filed by the respondent no.2 herein.

2.The facts in brief which arises in the present appeal are that one Shri Narayan Parab, the respondent no.2 herein, by his application, dated 19/7/2011,sought information from the respondent no.1 herein. The said information was sought by respondent no.2 in exercise of his rights under section 6(1) of The Right to Information Act 2005(**RTI ACT For short**).

3.As per the said application the information sought by respondent no.1 were the certified copies of the receipts issued by the appellant Comunidade to encroachers for regularization of encroachment and the details pertaining to the general body meeting held.

4. On receipt of the said application by the respondent no.1, being the PIO, by his letter, dated 19<sup>th</sup> July 2011,sought the assistance from the appellant u/s 5(4) of the RTI Act, requesting it to submit the information to him within seven days from the date of receipt thereof by it.

5. The appellant, through its attorney, by its reply, dated 27/7/2011,objected the said demand and refused to furnish the said information.

The respondent no.1, by its letter, dated 23/9/2011, once again called upon the appellant to part with the information which was also replied on the same grounds by the appellant by refusing to furnish the information.

6. The respondent no.2 having failed to receive the information from the PIO, filed said first appeal to the FAA ,being case no.RTI/AC-II/09/11/APL.

7.The FAA by its order, dated 26<sup>th</sup> September 2011, allowed the appeal and directed the respondent no.1 to furnish the information as sought by him within 15 days from the date of receipt of the order.

8. Pursuant to the said order of FAA, the respondent no.1, PIO,by her letter, dated 31/10/2011,once again called upon the appellant to produce the required information within three days from the date of receipt of the letter.

9. Instead of furnishing the said information to the respondent no.1 as demanded, the appellant has filed this appeal to this commission u/s 19(3) of the act challenging the said order of the FAA, dated 26/9/2011.

10. As a point of law was found to have been involved the appeal was placed and heard by Division bench of this commission.

11. Along with the appeal the appellant has also moved an application seeking leave of this commission to file the appeal. The same was granted.

12. The notice of the appeal was given to the respondents. The respondent no.1 filed its reply to the appeal. However the respondent no.2 did not file any say to the grounds as raised in the appeal by the appellant.

13. The appellant has challenged the order, dated 26/9/2011, passed by the FAA on several grounds as raised in the memo of appeal. The salient grounds being that the impugned order is passed without notice to the appellant and is in contravention of the spirit and letter of section 11 of the Right to information Act. It is the further contention of appellant that the information is held by the Administrator of Comunidades in the fiduciary capacity being the guardian and/or the tutor of the applicant and hence cannot be furnished.

It is further according to appellant that the impugned order fails to take into consideration that the appellant is only under the tutelage of the Government and administrator and not under their control and that the appellant is not a public authority or body or institution of self government established under the Constitution, Law of the Parliament or the State Legislature or financed by the Government.

According to appellant the appellant is a pre-existing body/institution administration of which was codified by the colonial masters under the code of Comunidades and that even under the Code of Comunidades the Colonial masters had only kept the Comunidades under its tutelage and not control and that the impugned order is bad for want of jurisdiction as the order is not passed by an officer superior/senior in rank to the original authority under the provisions of the Code of Comunidade. Thus according to appellant , on all the above counts, the impugned order is bad in law and is liable to be set aside.

14. The respondent no.1 has resisted the appeal inter alia on the grounds that under Article 5 of the “Code of Comunidades, the Comunidades are under the administrative tutelage of the State. State i.e. the Government has appointed respondent No.1 as Administrator of Comunidades North Zone hence he is the public authority for Comunidades as well as Public Information Officer under

RTI Act. According to PIO by virtue of article 1 of the code ,Comunidades or Gaoncarias existing in the District of Goa, Shall be governed by the bye laws contained in this Code and specially by the private law of each of them and under said article 5, being under administrative tutelage, they are under and not fully independent or supreme bodies, but subordinates to the State so far its administration is concern. Hence the Administrator of Comunidades being public authority is the controller of administration of the Comunidades whose competence is expressly stated in Article 125 of the Code.

According to PIO he, being the Administrator of Comunidades as well as Public Information Officer under RTI Act 2005, it is within his authority to take the assistance of Acting Secretary who is also APIO, in seeking directing, ordering, forwarding, communicating and calling for the information from the respective Comunidades by any mode of communication, as and when required. According to PIO, being subordinate, it is obligatory on the part of respective Comunidade to promptly act upon in furnishing, informing, providing and forwarding the respective information relating to the respective Comunidade whenever called for and failure may amount to insubordination/disobedience/indiscipline.

15. According to PIO though private bodies, Comunidades are being controlled by virtue of various restrictions under Code of Comunidades and as per 16. Section 2 (h)(d)(i) of the Right to Information Act 2005, the Comunidade come under purview of the said Act and are liable to provide the information to the Administrator of Comunidades. It is further according to PIO Administrator of Comunidades is empowered to take necessary action under Article 125 of the Code to discipline the administration and hence the question of any natural justice does not arise.

16. The appellant filed its written submissions. In addition to the written submissions, Adv. V. Menezes appearing for appellant also advanced oral arguments on behalf of the appellant. The respondents did not advance any arguments.

17. We have perused the records and also considered the arguments of the appellant. The submissions of Adv.Menezes are **three fold**:

i) That the **Comunidade is not a public Authority** as defined u/s 2(h),(d) and (i) of the Act.

ii) That Administrator appointed as **PIO has no jurisdiction to call for private information**.

iii) That the **appellant has not been joined as a party to any proceedings before lower court** nor has been heard thereby violating the principles of natural justice.

18. To substantiate the first contention that the Comunidade is not a public authority, Adv. Menezes has raised several points in support of such defense. He has also relied upon the judgments passed by the Hon'ble Supreme Court, Hon'ble High Courts of Bombay and Delhi.

In the course of his oral arguments Adv. Menezes, by referring to an order, dated 3/2/2010, passed by this commission in appeal no.107/SIC/2009, in the case of Comunidade of Serula, submitted that by said order this commission has held the Comunidade as a Public Authority and that the said order is under challenge in writ petition no.422 of 2012 pending before the Hon'ble High Court of Bombay, at Goa and that the said order, dated 3/2/2010 is stayed. Adv.Menezes produced on record the copy of the order, dated 24<sup>th</sup> July 2013 passed by the Hon'ble High Court in said Writ Petition no.422 of 2012.

We have perused the said order in the writ petition no.422 of 2012. Though the Hon'ble High court has not passed any final orders either confirming or setting aside the order of this commission, we find that it would be appropriate not to deal with the said issue whether the Comunidade is a public Authority under the act and be guided by the orders that shall be passed in the said writ petition. Hence we refrain from giving any finding whether the appellant is a public Authority or not. We therefore proceed to decide the present appeal on the other two grounds as raised by the appellant.

19. The second point of disagreement of the appellant is that the administrator has no jurisdiction to call for the private information contained in the private

books of Comunidade. To deal with this contention it would be appropriate to consider the provisions of “Code of Comunidades” (**code for short**) which governs the establishment and functioning of the appellant and the role of Administrator in the affairs of the Comunidade .

20. Article 118 of the code, as amended by Goa Act no.3 of 1998,dated 17/1/1998, prescribes the appointment of the administrator in the following words.

*“ Art.118.-In each of the administration office of the Comunidades of Goa, Salcete and Bardez, the respective administrator shall be appointed by the Governor General, on deputation from amongst the junior grade officers of Goa Civil Service and possessing the minimum qualification of 3<sup>rd</sup> cycle of Lyceum ”*

The duties of the clerk of Comunidade under the Code, *as amended by Goa Act no.3 of 1998*, dated 17/1/1998, are as contained at article 88. It reads:

“Art.88 -The clerk of the Comunidades-shall, in particular, be bound to:-

- a) Keep the books and accounts;
- b) Keep custody and maintain the achieves, which they can do at their residence, with the permission of the administrator when the Comunidade does not have its own building for that purpose;

*All the land dealings and transactions shall be kept open and shall be made available at least for ten years. Copies of such land dealings or any such important matters shall be sent to the Administrator of Comunidades, for maintaining duplicate copies in his office.*

c)-----

**d) Provide information which the administrator may require, within the period of five days and the necessary clarifications that may have been requested by any member;**

e)-----

f)-----

g)-----

h)-----

(emphasis supplied)

21. Thus under the code, the office of administrator, which is a public authority under the Act, has been granted access to the information held by the Comunidades.

22. Section 2(f) of RTI Act defines information as under:

“2. **Definitions.**\_\_\_ In this Act, unless the context otherwise requires,\_\_\_

(a) -----

(b) -----

(c) -----

(d) -----

(e) -----

(f) *“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;*

*“(emphasis supplied)*

23. Thus considering the requirement of the act and even assuming that the appellant herein is private body, the information pertaining to it can be accessed by a public authority viz. the office of administrator under 88(d) of the code. The code further makes it mandatory on the part of Comunidades to part with the information to the office of Administrator whenever called by it. Thus under the RTI Act, PIO of Administrator of Comunidade, a public authority can call for such information. In the circumstances we find no irregularity or illegality on the part of the respondent no.1 in seeking information from the appellant. Consequently we are unable to concur with the submissions of Adv. Menezes that the administrator, as PIO, has no jurisdiction to call for information from appellant, even if the same is contained in the private books in the custody of Comunidade.

24. Now coming to the third contention of the appellant that the FAA has not heard the appellant before passing the impugned order and that therefore the order is hit by principles of natural justice, it is to be noted that the RTI Act provides two classes of private information which can be disseminated. The first one is provided u/s 11 of the RTI Act. Said section 11 reads: “*11. Third party information.\_\_\_\_ (1) Where a Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, **which relates to or has been supplied by a third party and has been treated as confidential by that third party** ,the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed and such submission of the third party shall be kept in view while taking a decision about disclosure of information: **Provided that** except in the case of trade or commercial secrets protected by law, **disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.*** (emphasis supplied)

Thus the requirement of notice or hearing private parties before parting with the information would occur only in cases of information which relates to or has been supplied by a third party and has been treated as confidential by that third party.

In the present case the information called for by the Administrator is in exercise of its rights under article 88(d) of the code which itself regulates the functions of the appellant. The appellant is bound to provide the same to the administrator. In this case there is no element of confidentiality involved. The nature of information as held by public Authority u/s 11 of the RTI Act and the



one held by PIO herein under article 88(d) of the code are thus distinguishable. Consequently the question of hearing the appellant does not arise.

In the above circumstances we are unable to subscribe to the third contention of the appellant that there is violation of principals of natural justice. 25. In the facts and circumstances of the case and without touching the issue whether the appellant is a public authority or not under the RTI act , being under consideration of the Hon'ble High court as submitted by the advocate for appellant and further even assuming that the appellant is a private body, we hold that the information pertaining to it can be accessed by the office of the Administrator under the code and the same can be disseminated under The Right to Information Act 2005 by the PIO.

In the circumstances we find no merits in the appeal and consequently we dispose the same with the following :

### **ORDER**

The appeal is dismissed. The impugned order, dated 26/9/2011 passed by the first appellate authority is upheld.

Proceedings closed.

Notify the parties.

Pronounced in the open proceedings.

\*\*\*\*\*

## 2. Appeal No.16/SCIC/2017

Adv. Atish P. Mandrekar,  
C/o. Adv. D. Y. Sawant,  
Above Fair Deal Agency, 31<sup>st</sup> January Road,  
Panaji-Goa.

.....

Appellant

V/s

1) The Public Information Officer,  
Dr. Shilpa Waikar,  
Medical Superintendent IPHB,  
Bambolim-Goa.

2) The First Appellate Authority,  
Director/Dean IPHB,  
Bambolim-Goa.....

Respondents.

### (A) BRIEF FACTS:

1. The facts in brief as are involved herein are that the appellant herein by his application, dated 14/12/2016, filed u/s 6(1) of The Right to Information Act 2005 (**RTI Act for short**) sought from the respondent no.1, Public Information officer(PIO), information concerning the illness of Mrs. Tanuja Ramchandra Malwankar @ Tanuja Narayan Kinklekar. The information was sought on five heads viz.

(i) *Entire medical report/record/treatment taken from 21/08/2008.*

(ii) *Nature/Description of illness/sickness caused*

(iii) *Nature of medical treatment taken by her.*

iv) *Names of doctors giving treatment.*

v) *Inspection of the documents/files register etc.*

2) Said application was responded by the PIO on 04/01/2017 in terms of section 7(1), interalia informing that she was examined by several doctors on different occasions and that providing of the information about illness/sickness or nature of treatment taken would require drawing inferences and hence not constituting information.

It was further replied that the medical records of patient are confidential and held by doctors in fiduciary relationship and that it has no larger public interest involved to warrant disclosure.

3) Being aggrieved by the said response, the appellant approached the First Appellate Authority (FAA) by way of first appeal u/s 19(1) of the RTI act. The FAA, by his order, dated 20/01/2017 directed the PIO to provide the information as per relevant clauses of the RTI act. While deciding the said appeal, the FAA has recorded that the appellant/counsel agreed to establish the relationship with the person, pertaining to whom information was sought as also to provide letter of Authority and the current address of the third party whose information was sought.

4) Pursuant to said order of FAA, the appellant submitted the document to establish the relationship, as also the authority and the address of the third party pertaining to whom information was sought. On receiving the said details, the PIO by reply, dated 16/02/2017, responded the appellant's application u/s 6(1), once again. By said reply the PIO furnished the list of the names of doctors, who had treated the third party, which was in response to answer to point no.(4). However, the information regarding the other points Nos. 1, 2, 3 & 5 was refused on the same grounds as was raised earlier, being in the nature of drawing inferences, confidentiality and fiduciary relationship and that it lacks of public activity or interest and invasion on privacy of individual.

5) The appellant being aggrieved by said reply of PIO, pursuant to the order of FAA, has approached this Commission with this second appeal u/s 19(3) of The RTI act, on the ground that the reply, dated 16/02/2017 is unsatisfactory and deliberate refusal of information. It is also his contention that the PIO has not complied with the orders of the FAA and that PIO has breached the mandate of Act by denying information. With the above grounds the appellant has prayed this Commission for a direction to furnish information as also for an action against PIO as also for penalty and disciplinary action and costs of the appeal.

On 16/03/2017 the appellant filed application for urgent notice on the ground that the concerned information is required to be produced before Civil Judge, Senior Division, Bicholim in matrimonial petition No.21/2014/A and that there is urgency. Said application was granted.

6) The PIO and the FAA were notified, pursuant to which they appeared. As the information sought pertains to one Smt Tanuja Malwankar @Kinlekar, hereinafter referred to as THIRD PARTY, as required u/s 19(4) of the RTI act, notice was issued to her to make her submissions. On receipt of said notice the third party filed her reply on 01/06/2017.

7) Vide her said reply, the third party viz Smt Tanuja Malwankar, objected the dispensation of her information to the appellant or any person. According to her the medical records are not within domain and scope of public information and has nothing to do with serving of public interest and that furnishing of information would cause grave damage and invasion on her privacy. It is according to her that the appellant has no relation of whatsoever nature with anything related or concerned with third party and hence is not entitled to have the information. By referring to section 8(1)(j) of the RTI act, the third party has contended that unless the PIO is satisfied that a larger public interest justified the disclosure of information, the information as sought cannot be furnished.

8) Oral submissions of appellant and the PIO were heard. The third party did not remain present at the time of oral hearing of the parties.

In his submissions the appellant submitted that he is the authorized representative of one Shri Ramchandra Malwankar, husband of said Smt. Tanuja and has sought the information on his behalf pertaining to his wife, who is the third party herein. He submitted that the letter of authority alongwith the marriage certificate of said Ramchandra and third party Smt Tanuja, is filed on record.

Appellant further submitted that a proceedings for divorce between said Ramchandra and third party, Smt. Tanuja is pending in the Court on the ground of unsoundness of mind and ill-treatment and hence the information, which is sought, is required to be filed in court. According to appellant the information between husband and wife does not constitute third party and hence can be furnished to either of the spouses.

In support of his contentions appellant relied upon the judgment passed in ***Writ Petition No.1 of 2009 (Kashinath Shetye v/s Public Information Officer and***

*others*) of the Hon'ble High Court of Bombay at Goa. He has also relied upon the judgment of the Hon'ble Supreme court in the case of ***Mr "X"-Appellant V/s Hospital-Z Respondent [(2003(1) supreme 66 ]*** in support of his contention that the medical records can be disseminated as information in public interest.

Besides above citations the appellant has also relied upon the order passed by the Central Information Commission (CIC) in the case of ***Mrs. Jyoti Jeena V/s PIO, Institute of Human Behaviour and Allied Science (CIC/KY/A/2014/00/348-SA )*** and also of the Goa State Information Commission in the case of ***Mrs. Cynthia Azavedo V/s First Appellate Authority and others (Appeal No.35/SCIC/2011)***.

While concluding his submissions, appellant submitted that had there been no public interest or public activity involved, the PIO could have directed him to prove the same. With these submissions and relying on the above citations, the appellant has thus submitted that information as sought being not covered under any of the exemptions contained in section 8 of the RTI act, the same be ordered to be furnished.

9) While substantiating her stand in refusal of information, PIO submitted that the information as is sought is restricted under The Mental Healthcare Act 2017, (hereinafter referred to as ***2017 ACT***). According to her section (23) of the said 2017 act requires confidentiality to be maintained in respect of the person with mental illness. Further u/s 82 (d) of the 2017 act, the issue regarding non disclosure of information can be dealt with only by the Board Constituted u/s 74 of said act. She further pointed out that section 120 of the 2017 act has a overriding effect over the RTI Act. Thus according to her the information cannot be furnished.

By referring to the application of the appellant in hand, PIO submitted that firstly the information as is sought is in the nature of summary of records and requires inferences to be drawn hence cannot be furnished. Further according to her the information is held in confidentiality and fiduciary relationship and hence cannot be furnished. She further submitted that as no public interest is also involved in the information the same cannot be furnished. With reference to

the order of the FAA, the PIO submitted that, in his said order the FAA has not considered the larger public interest nor has come to any finding in that respect. In support of her contentions the PIO has relied upon the judgment of the Hon'ble High Court of Delhi in the case of *the Registrar, Supreme Court of India V/s Subhashchandra Agarwal and others (WP(c ) 1842/2012 &CM No.4033/2012)*.

**B) FINDINGS:**

10) I have considered the pleadings of the parties vide the memo of appeal and reply filed by the third party as also the submissions made by the appellant and the PIO. Considering the rival contentions of the parties herein, the points which arise for may determination are:

**(i) Whether the information sought cannot be furnished in view of the bar created by section (23) R/w section 82(d) of the Mental Health care Act 2017.**

**(ii) Whether the information sought has any relationship to any public activity or involves any larger public interest.**

11) For the purpose of considering the point (i) above which arises in view of the contention of the PIO, it would be necessary to consider the provisions of the 2017 Act. Section 23 of the said act confers a right of confidentiality in favor of the person with mental illness. Section 82 (c ) of said 2017 Act grants jurisdiction to the board constituted u/s 73 of the said act and thus takes away the jurisdiction granted to other authorities to consider the complaints of non disclosure of information. Section 120 of the said 2017 Act, in view of the overriding effect, also takes away the jurisdiction of this Commission to deal with the complaints of information seekers against refusal of information.

However while repealing the earlier act by way section 126 of the 2017 Act, the proceedings taken under the old act are saved. The proceedings in this case started in December 2016 when the 2017 act was not in force. Moreover there is nothing on record to hold that the new act of 2017 has at all come in operation. Considering the above position, I find that the contention of PIO that the new act 2017 is attracted in the present case or that it takes away the jurisdiction of

the authorities constituted under the RTI Act is not attuned to 2017 Act. The 2017 act being not in operation till date and also in view of the fact that the present proceedings are saved under the ne act, there is no bar on the seeker to obtain information under RTI Act, unless bared by RTI Act. Consequently point no.(i) has to be answered in the negative.

12) Coming to point (ii) above, it would be expedient to analyze the nature of information vis a vis the person in respect of whom the same is sought. The PIO vide her reply, dated 16/02/2017, being the response to the appellants application u/s 6(1) of the RTI act, has furnished part information which contains only the list of doctors who had treated the third party. However PIO has refused to furnish balance information on the ground that the same is exempted from disclosure under section 8(1)(e) and (j) of the act. Said provisions read:

**“ 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 this fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

f) -----

g) -----

i) -----

j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate

authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.” Thus for the purpose of considering exemption u/s 8(1)(e) and (j), it is necessary to consider whether the information held by the authority warrants disclosure in larger Public Interest or whether the disclosure has relation to any public activity or public interest.

13) Medical information of is a personal information, which is required to be maintained by the medical practitioner in confidence under his professional ethics. However the RTI act makes an exception to the maintenance of such secrecy in public interest. The term “**Public interest**” used in this provision requires that the disclosure of information for use and benefit of the people as on whole and concerning the affairs of community. In Wharton’s Law Dictionary the term “**public Interest**” is defined as an “**action necessarily taken for public purpose**”. In other words in case the interest of the public at large would be jeopardized by withholding the information in such event the same is required to be shared in the interest of community.

In the **Black’s law dictionary** (6<sup>th</sup> edition) at page 1299 the term Public interest is defined as “**Something in which the public, the community at large, has some pecuniary interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by matters in question---**”

14) The appellant in support of his contentions has relied upon the judgment of the Apex Court in Mr.”X—Appellant v/s Hospital—Z-Respondent (W.P. 4641 of 1998. 2003(1) Supreme 66). In the said case the information which was sought was pertaining to HIV+ patient. In the said case before the Apex Court, an exception is carved out to the rule of confidentiality and disclosure of medical information is permitted apprehending immediate or future health risk to others. These observations of the apex Court are contained in the following words:

**“16.The General Medical Council of Great Britain in its guidance on HIV infection and AIDS has provided as under:**



*“When diagnosis has been made by a specialist and the patient after appropriate counseling, still refuses permission for the General Practitioner to be informed of the result, that request for privacy should be respected. The only exception would be when failure to disclose would put the health of the health-care team at serious risk. All people receiving such information must consider themselves to be under the same obligations of confidentiality as the doctor principally responsible for the patient’s care. Occasionally the doctor may wish to disclose a diagnosis to a third party other than a health-care professional. The Council think that the only grounds for this are when there is a serious and identifiable risk to a specific person, who, if not so informed would be exposed to infection.....A doctor may consider it a duty to ensure that any sexual partner is informed regardless of the patient’s own wishes.”(Emphasis supplied)*

*17. Thus, the Code of Medical Ethics also carves out an exception to the rule of confidentiality and permits the disclosure in the circumstances enumerated above under which public interest would override the duty of confidentiality, particularly where there is an immediate or future health risk to others.”*

15) The illness involved in the case before the Hon‘ble Supreme Court was of an HIV+ patient. In the said case the Medical Council as also Apex court has considered the special circumstances warranting such relaxation specifically on HIV infection and AIDS. It is a matter of public knowledge that the said illness is contagious and may affect the community if not made aware. It is with this intent of social awareness that the secrecy is relaxed. But neither the General Medical Council nor the Hon‘ble Apex Court has generalized the said rule of disclosure for all illnesses/ailments.

16) Coming to the case in hand, the illness alleged is not the one which can affect the community at large. The same at the most can effect another individual with reference to the behavior. There is no contagiousness involved to alert the community. In the circumstances, the liberty of revealing the

information in the cases of contagious disease like AIDS, as is granted by the said guidance in public interest, cannot be applied to the ailment of the third party herein. Thus ratio laid by the Apex court and the one involved herein are distinguishable.

17) Regarding the case of *Ms. Jyoti Jeena CIC/Ky/A/2014/001348-A(Supra)* as relied upon by the appellant, firstly I have to observe that the said order does not have a binding effect over this Commission, being passed by another commission with concurrent jurisdiction.

However even for the purpose of reference, I have to say that the same is based on the same judgment of the apex Court in the case of *Mr.-X Appellant v/s Hospital –Y Respondent (Supra)*. In the said order of CIC, a reference is made to the observation of the apex court of para (27) of the judgment. On the basis of the words "Other" as used by the Apex Court the CIC has concluded that the private information could be passed on to others. In fact in the said judgment of apex court which is referred to by CIC, the term "others" used by the apex court suggests that the same pertains to public at large.

18) The Hon'ble Supreme Court observation in the said case was for the interpreting the scope and extent of relaxation of confidentiality to be maintained by doctors under Indian Medical Council Act. In the said case in view of the nature of disease The Apex Court had held involvement of "public interest".

As per the preamble of RTI Act, the right to information to citizen is to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. Thus the rights conferred to citizens under this act are distinct and separate from the ones granted under the constitution and other laws.

19) I have considered the case of *Mrs Cynthia Azavedo (Supra)*, as relied upon by the appellant. Though the said Judgment is not a precedent for this Commission, I subscribe to the view of the then State Chief Information Commissioner. In the said case the information was sought from the public Authority pertaining to a public officer receiving his salary from public

exchequer. Notwithstanding the relation of the seeker as wife of the officer, the seeker therein as a citizen, was held to be entitled to know the exact amount received by him from public exchequer. Certainly a public interest was involved therein.

20) In the *present case the appellant has also claimed to be the authorized person of the husband of the third party. According to him the said information is required for the purpose of a matrimonial proceedings pending in the court at Bicholim. It is according to him the information can be shared to him being the representative of the spouse.*

If one peruses the provisions of the RTI act, neither section 6(1) of the act nor exemptions contained in section 8 grant any privileges to the relative of the third party, to have a special access to the information of his/her counter part. Such privileges, may be available under any other law but under RTI act the issue to be considered by this forum is whether as a citizen of India a seeker can have access to the information of another, unless it is justified that it has a relationship to public activity or that a larger public interest is involved. The relation of the seeker and the third party is immaterial.

21) In the present case the third party, viz Smt Tanuja Malwankar has been examined by the Institute being her individual requirement. She is neither accountable to public authority nor has relation with the functioning of public authority. As held above the illness has no implication on the society as a whole.

22) In a similar matter regarding the disclosure of the wife's personal details for the purpose of using as evidence in civil action initiated by the husband, the Hon'ble High Court of Delhi in the case of ***Vijay Prakash V/S Union of India and others (Writ petition ( C ) 803/2009***, by upholding, the findings of the Central Information Commissioner has observed.

*“23. As discussed earlier, the “public interest” argument of the Petitioner is premised on the plea that his wife is a public servant; he is in litigation with her, and requires information, -in the course of a private dispute –to establish the truth of his allegations. The CIC has held that there is no public interest element in the disclosure of such personal information, in*

*the possession of the information provider, i.e. the Indian Air Force. This court concurs with the view, on an application of the principles discussed. The petitioner has, not been able to justify how such disclosure would be in “public interest” : the litigation is, pure and simple, a private one. The basic protection afforded by virtue of the exemption (from disclosure) enacted under Section 8(1)(j) cannot be lifted or disturbed.”*

In the said writ petition the Hon'ble High Court has upheld the findings of the CIC which were in the following words:

*“During the hearing, the Appellant submitted that the information sought was required for producing before the Competent Court where a dispute was pending between him and Dr. Sandhya Verma and the information was necessary for fair trial. The Respondents submitted that the information was necessary pertained to personal information concerning Dr. Sandhya Verma, a Third Party and had no relationship to any public interest or activity and, therefore, exempt from disclosure under Section 8(1)(j) of the Right to Information Act. The information which has been sought includes, attested copies of all the leave application forms submitted by Dr. S. Verma since she was posted to 4 AFSB, copies of nomination of DSOP/other official documents with financial implications and record of investment made and reflected thereon in service documents along with the nominations thereof, if explicitly made. The information sought is obviously personal information concerning Dr. Sandhya Verma, a Third Party. It is immaterial if Dr. Sandhya Verma happens to be the wife of the Appellant. The information sought does not seem to have any relationship to any public interest or public activity and has been expressly sought to be used as evidence in a dispute in a Court pending between the Appellant and Dr. Sandhya Verma. The decision of the CPIO, upheld by the Appellate Authority, in denying the information by invoking the exemption provision of Section 8(1)(j) of the Right to Information Act seem to be absolutely right and just. We find no reason to*

*interfere with the decision of the Appellate Authority and, thus, reject the appeal.”*

23) Another contention of the appellant is that he was never given any notice to establish larger public interest nor any explanation was sought from him. Such argument is also dealt with by the Hon‘ble High Court of Delhi in the said case of ***Vijay Prakash (supra)*** by holding:

*“22.-----The nature of restriction on the right to privacy is therefore of a different order; in the case of private individuals, the degree of protection afforded is greater; in the case of public servants, the degree of protection can be lower, depending on what is at stake. Therefore, if an important value in public disclosure of personal information is demonstrated, in the particular facts of a case, the protection afforded by Section 8(1)(j) may not be available; in such case, the information officer can proceed to the next step of issuing notice to the concerned public official, as a “third party” and consider his views on why there should be no disclosure. The onus of showing that disclosure should be made, is upon the individual asserting it; he cannot merely say that as the information relates to a public official, there is a public interest element. Adopting such a simplistic argument would defeat the object of Section 8(1)(j); the legislative intention in carving out an exception from the normal rule requiring no “locus” by virtue of Section 6, in the case of exemptions, is explicit through the non-obstante clause.--  
-----”*

24) The appellant has relied on the judgment in the case of ***Kashinath Shetye V/s Public Information officer Writ Petition No.1 of 2009(Supra)***. In the said case the commission has directed the disclosure of information pertaining to leave records of the petitioner who is a public servant. The said order was challenged in the said Writ Petition, which was dismissed. However while clarifying the limitation contained under the RTI act in such disclosure in the interest of privacy, the Hon‘ble High Court at para (8) has observed:

*“8.The next question is whether the applicant should be supplied the copies of the application at all. It was contended that the copies of the application should not be supplied for, they may contain the nature of the ailment and the applicant has no right to know about the ailment of the petitioner or his family. To my mind, what cannot be supplied, is a medical record maintained by the family physician or a private hospital. To that extent, it is his right of privacy, it certainly, cannot be invaded. The application for leave is not a medical record at all. It, at the most, may contain ground on which leave was sought.-*

*-----“.*

25) I have perused the order, dated 20/01/2017, passed by the FAA. In the said order, though the PIO has contended before it that no public interest or activity is involved, no findings of FAA are contained therein. Before directing the disclosure, it was incumbent upon the FAA to conclude and hold that the information has a relation to public activity or that it involves public interest. Be that as it may, the FAA while deciding the appeal has considered the offer of the appellant to furnish the documents pertaining to the relationship with the third party and on bases of such offer has passed the order to provide the information as per relevant clauses of the RTI Act. Firstly the authorities constituted under the RTI Act have no jurisdiction or competence to decide the relationship of any of the parties. Only relationship recognized under RTI act is that the seeker is a citizen of India. Relation of the parties interse is redundant under the RTI act. Thus the FAA has exceeded his jurisdiction on such issue. I therefore find that the order of the FAA is not based on the judicial principal consequently same cannot survive.

26) In the backdrop of the above facts, I find that Medical records of the third party herein are not maintained in the course of any public activity. The said records are created under the personal requirements of the patient. Moreover the disclosure of the said information has no relation to any public activity or public interest. Thus, notwithstanding the fact that the seeker is the husband of third party herein, in case the same are disclosed the same would amount to invasion

on privacy of the third party. The third party also has objection to dispense the same to the appellant. In the circumstances I find no merits in the appeal. Consequently the same is disposed with the following :

### **ORDER**

The appeal is dismissed. The order dated 16/2/2017 passed by the PIO is upheld. The order dated 20/01/2017 passed by FAA is set aside. This order shall not effect the right of appellant to seek the information/records under any other law in force from the competent forum.

Proceedings closed.

Notify the parties.

Pronounced in the open proceedings.

\*\*\*\*\*

### **3.Appeal No.135/SCIC/2016**

Shri Subhash G. Narvekar,  
R/o “Ganesh”, H. No.164/V,  
Alto Dhuler,  
Mapusa –Goa.

.....Appellant.

V/s

1) Shree Dev Bodgeswar Saunsthan,  
Mapusa Goa Represented by its attorney,  
Mr. Naresh Tivrekar,  
r/o Mapusa –Goa.

2) The Managing Committee,  
Shree Dev Bodgeswar  
Saunsthan,  
Mapusa –Goa represented by its attorney,  
Mr. Naresh Tivrekar,  
r/o Mapusa –Goa.

3) Mamlatdar of Bardez/Administrator  
of Devasthan, Bardez taluka,  
Mapusa –Goa.

....Respondents.

## **FACTS**

1. The facts in brief as are pleaded by appellant are that the Appellant is Mazane registered at serial No.730 in the catalogue maintained by Shree Dev Bodgeshwar Saunsthan.

2. That the Appellant vide his two letters dated 11/06/2016 purportedly filed under section 4 of The Right to Information Act 2005 (**Act** for short) requested the Secretary of the Opponent NO.1 for information/documents in respect of civil works carried out in/around the temple, the hall of Shree Dev Bodgeshwar Saunsthan including public toilets adjacent to the hall and the donations of Rs. 560,000/-received by the Saunsthan.

3. According to the Appellant vide his letter, dated 16/06/2016 he informed the Opponent No.3, Mamlatdar of Bardez being the Administrator, about the said 2 letters Dt. 11/06/2016, however according to appellant the Opponent No.3 did not take any action.

4. That Vide letter, dated 09/07/2016 appellant was informed by the Secretary of the Opponent No.1 that the applications were placed before the Opponent No.2, who decided to inform the Appellant that the Devasthan does not fall under RTI Act 2005. Hence according to appellant, the Opponent No.2 is intentionally refusing to give information under the pretext that the Devasthan does not come under provisions of RTI Act 2005.

5. With the above contentions the appellant has approached this commission with this proceedings as an appeal on the grounds that the Opponent No.2 is hiding the information/documents and that it has refused to furnish the information on the pretext that the Managing Committee has taken decision that the Devasthan does not fall under RTI Act 2005. It is further according to appellant that the act is applicable to all public authorities constituted under law made by State Legislature or by notification issued or order made by the appropriate Government and that the regulation governing Hindu Temples was enacted by Portuguese Government and is applicable to all Hindu Temples in Goa and further that said regulations were subsequently amended by Legislative



Assembly of Goa on various occasions. According to appellant the constitution and management of Shree Dev Bodgeshwar Saunsthan is subject to provisions under the Devasthan Regulations enacted by the Government of Goa and that according to appellant it transpires that the Opponent No.1 has not taken any steps under section 4 & 5 of the act.

With the above grounds the appellant has prayed for directions to opponents nos. 1 and 2 to appoint Public Information Officer(PIO) and the Appellate Authority under section 5 of the act and for a direction to opponent no.3 to watch over and take steps to see that Devasthan in Bardez Taluka are adhering to the act as also for direction to issue information.

6. Notices were issued to the parties pursuant to which they appeared. The attorney of the respondent no.1 and 2 is represented by Adv. V.J. Pandit whereas appellant appeared in person. The respondent nos. 1 and 2 filed their reply on 10/8/2016. the parties advanced oral arguments as also filed their submissions in writing.

7. The appellant has filed the present proceedings as an appeal purportedly u/s 19 of the Act. The act u/s 19(3) has conferred jurisdiction to this Commission to hear appeals against the orders of the first appellate Authority passed u/s 19(1) of the Act. In the present case, as per the records the appellant has not filed any such appeal u/s 19(1) of the act and as such this appeal , if deemed as the second appeal u/s 19(3) of the act would amount to entertaining a premature appeal by by passing the powers of the First Appellate Authority.

However, if one considers the nature of grievance of the appellant, he is refused information on the ground that the Authority from whom information is sought i.e. respondents nos.1 and 2 is not a public Authority. In this appeal the appellant has also prayed for a direction from this commission to respondent Nos.1 and 2 to appoint PIO and the Appellate Authority.

8. I have perused the records and considered the submissions of the parties. The Appellant, Shri Narvekar , in the course of the argument has filed on record a copy of the order passed by the Hon'ble High Court order dated 16/03/2007 of Bombay at Goa in Writ petition NO. 139 of 2007. The said W.P was filed

challenging the order passed by this Commission , dated 19/02/2017 in complaint No.17-A/2006/MAM-PONDA wherein his Commission has held that the Devasthan are Public Authorities within the meaning of section 2(h) of the Act.

In the course of hearing of the said W.P. NO.139/2007, this Commission has withdrawn its order in view of the fact that the petitioner therein doesn't claim any of the respondents as public institution and consequently the Hon'ble High Court has set aside the order of the Commission by holding that such withdrawal of the order shall not come in the way of Commission deciding the issue whether Devasthan is a public authority in an appropriate case wherein the applicant make appropriate request in accordance with law. In the above circumstances also this Commission is required to decide firstly whether the Devasthan namely viz. the respondent No.1 herein is a public authority under section 2 (h) of the act.

9.The Hon'ble High Court of Bombay at Goa in writ petition NO.398 OF 2010(***Goa State Milk Producers Union V/S Goa State Information Commission and others***) at para (4) of the judgment has held :

*“4. I entirely agree with the submission made by the learned Counsel on behalf of the petitioner. Without giving a finding whether the petitioner i.e. Goa State Co-operative Milk Producers Union Ltd. was public authority or not within the definition of Section 2(h) of the said Act there was no question of the learned Commission directing the appointment of a Public Information Officer much less a direction to the Registrar/Assistant Registrar to appoint one for the petitioner.”*

Thus Considering the rival contentions of the parties and the prayer of the appellant for appointment of the PIO and the appellate authority and further by applying the above principal as laid down by the Hon'ble High Court of Bombay at Goa ,the limited point, which has to be addressed by the commission in this proceedings at this stage is whether the opponent No.1 and 2 is a public authority u/s 2(h) of the act.

**10.**According to appellant, the Opponent No.1 is an institution of self government constituted by law made by State Legislature and that it is substantially financed by Government of Goa and further that it is controlled by the Government hence is a public authority. In support of his said contention that the respondent no.1 and 2 is constituted under the act of state,the grounds raised by appellant are that : i) The body of Mahajans/Mazania of Opponent No.1 was constituted under Devasthan Regulation of 1933 by publication of bye-laws under provisions of Article 17 to 20 of the Devasthan Regulation of 1933 approved by Government of Goa in the official Gazette on 25/10/1966 and Article 17 gives legal constitution to Mazanias once the bye-laws are approved by the Government.

ii) That the working/administration of the Opponent No.1 is governed by the Devasthan Regulation enacted by the Portuguese Government “Regulamento Das Mazanias” approved by the Diploma Legislation No.645 dated 30/03/1933 and amended by the Diploma Legislation No.1898 dated 29/05/1959 and that these regulations were adopted and continued by the subsequent Government and till today by the State Government of Goa and some of the provisions including Article 40 was amended in the year 1980 by the State Legislature.

iii) That the Devasthan Regulation is a law under Article 13 of the constitution of India and Article 428 of the Devasthan Regulation requires the Mazanias which are since long in the power of being considered to be constituted, even though they do not have bye-laws approved, should get the same approved within 90 days.

iv) That the titles in the Devasthan Regulation “Regulation governing Hindu temples (Devasthans) of Goa, Daman & Diu and relating to constitution and management of bodies of members (Mazanias) of Hindu Temples (Devasthan) itself suggest that the said legislation was enacted to regulate, constitute and manage the bodies of Devasthan.

11) For the purpose of considering the above contentions it would be necessary to consider the relevant provisions of the act. Section 2(h) of the act reads:

**“2. Definitions.**\_\_ In this Act, unless the context otherwise requires,\_\_

- (a)-----
- (b)-----
- (c)-----
- (d)-----
- (e)-----
- (f)-----
- (g)-----

***(h) “public authority” means any authority or body or institution of self-government established or constituted\_\_***

*(a) by or under the Constitution;*

*(b) by any other law made by Parliament;*

*(c) by any other law made by State Legislature;*

*(d) by notification issued or order made by the appropriate Government, and includes any\_\_*

*(i) body owned, controlled or substantially financed;*

*(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;*

***(i)-----”***

Thus for any body to be a public authority, the requirements are :

Establishment or constitution of authority itself by or under the Constitution/  
any other law made by Parliament/ any other law made by State Legislature/  
notification issued or order made by the appropriate Government,

b) Authority should be owned, controlled or substantially financed

c) Non-Government organization substantially financed, directly or indirectly  
by funds provided by the appropriate Government

**12)** If one analyze the above requirements vis a vis the respondents nos.1 and/or 2 herein, undisputedly the related legislation is the “Regulamento das Mazanias” as approved by Diploma Legislative No.645 dated 30/3/1933 which are also called as “Devasthan Regulation”.(Hereinafter referred to as REGULATIONS for short)

13) The phrase “*established* or constituted by or under “as used in said section 2(h) suggests that the legislation itself should have the intent to constitute such authority and they should exist and function as per the law promulgated for its establishment.

14) For the purpose of better understanding the nature such legislation an analogy can be drawn in case of law like **The Reserve bank of India Act 1934**. The said act was enacted for the purpose of constituting Reserve Bank itself. This intent for promulgating such act is contained in the preamble of the said act as under:

*“An Act to constitute a Reserve Bank of India. Whereas it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India] and generally to operate the currency any credit system of the country to its advantage;”*

Another analogy with reference to state legislation can be drawn pertaining to the acts like “**The Goa, Daman and Diu Industrial development Act 1965**”. The said act is promulgated with an aim of orderly development of the Industries and also for setting up of Industrial Development corporation. Such intention is found in the preamble of the said act as under: “An Act to make special provision for securing the orderly establishment in industrial areas and industrial estates of industries in the State of Goa and to assist generally in the organisation therefore, and *for that purpose to establish an Industrial Development Corporation*, and for purposes connected with the matters aforesaid.

Thus from the nature of its constitution the said authorities like Reserve bank of India and the Goa Industrial development Corporation , it is seen that the acts itself are enacted for the purpose of constitution and establishment of such entities.

15) Coming to the case of regulations, the preamble reads “*Regulations Governing Hindu Temples(Devasthans) of Goa, Daman and Diu*” .The said

regulations contains several Titles each dealing with various aspects governing the Hindu temples.

16) The term “**REGULATION**” is defined in the **Wharton’s law dictionary** as a “rule or order prescribed for management or governance “. In **Black’s law dictionary** it is defined as “The act of regulating; a rule or order prescribed for management or government; a regulating principle; Rule of order prescribed by superior or competent authority relating to action of those under its control.” And the term “**Regulate**” is defined as “*To fix, establish, or control; to adjust by rule, method, or established mode; to direct by rule or restriction; to subject to governing principles or laws.*”

Thus considering the above meaning, if a body is already in existence and if any legislation is enacted for governing its management or functioning , such a body cannot be construed as a body constituted under such legislation.

17) By referring to Title I of the regulations, appellant has submitted that the said regulations are also for constitution of the temples and hence it should be held that the Devasthanans are constituted under the state legislation.

I am unable to accept the above contention. Title I of the regulations are preceded by preamble being “ *Regulation Governing Hindu Temples (Devasthanans) of Goa, Daman & Diu*”. It does not state as Regulations for constituting the Hindu temples. The terms “*Constitution and management of the bodies of members*” used in Title I read with the preamble of the regulations as above shows that the regulations are enacted for constitution of the bodies of members and management of the bodies.

The management of the temples includes the constitution of the bodies by election as provided under the regulations. It also contains the administration of the Devasthanans by such constituted committee, management of funds, property etc. Thus the word constitution as used in title -I shows that the constitution of the committee, which also forms an integral part of management is regulated by said regulations.

The phrase “*The bodies of members (mazanias) which are since long in the power of being considered to be constituted*, -----“as used in article 428 of the

regulations itself shows that the regulation came into effect after the constitutions of Hindu temples . Thus these regulations were framed for regulating such existing temple. These institutions thus are not constituted under said regulations. It is only in view of the necessity for governing the functioning of such constituted institutions that the regulations are framed. The generality of these regulations is also evident from the fact that under Article 435 the regulations are extended to the institutions of other religions also till they have a special Regulations.

**18)** Another point in support of the said contention raised by the appellant is that as required under Article 17 of The Regulations, the respondent has its bye laws duly approved by the Government. Hence according to him the respondent nos. 1 and 2 are to be held as public authorities. Here again I am unable to subscribe to this view.

Section I of Chapter II and Regulations 17 and 18 at Section I of chapter-II of the regulation reads:

**“Section I**

***Relating to the bye -laws of the bodies of members (mazanias)***

**Art. 17--***The bodies of member (mazanias) in order to have a legal constitution, shall be required to have bye -laws approved by Government, wherein, it should be mentioned the designation of the Devasthanans and their dependent temples, of the groups or family groups of which the bodies of members (mazanias) are composed, tribe, “gotra” (progeny comprising various families), when the associates are Brahmins, class and surnames (mazanias) rights and obligations, honours and responsibilities of each family group, and of families within the family groups, cult, obligatory religious acts and festivities, fund receipts and expenditure, servants and their obligations and pay, rates of cultural and festive acts, and any other provisions that may not be in opposition to this Regulation and to the general law.*

**Art. 18 —** *The drafts of the bye -laws shall be prepared by special committees appointed by Governor General, and they should be written in an ordinary*

*paper, in duplicate, with their Marathi or Gujarati or Urdu translation, and accompanied by the respective lists of member (mazanias).”*

Thus on careful reading of the above it is clear that firstly the bye laws are framed by the Mazania through a special committee and the Government has only to approve it. Secondly the requirement of approvals is for the purpose of having a legal status for existing bodies. The approval of bye laws is not sine qua non to existence of the such bodies.

Notwithstanding the approval of bye laws the bodies can continue its existence, may be without any legal sanctity and rights . Thus such a requirement under Article 17 and 18 does not by itself qualify the respondent nos.1 and 2 as Public Authority.

**19)** Hon’ble Supreme court, in the case of ***Thalappalam Service Coop. Bank Ltd. V/S State of Kerala ( 2013) 16 Supreme Court Cases 82***, as relied upon by the respondent nos. 1 and 2, while distinguishing the law enacted for constitution of bodies and those enacted for regulating the functioning, has held: *“44.We are of the opinion that when we test the meaning of expression controlled” which figures in between the words “body owned” and substantially financed”, the control by the appropriate government must be a control of a substantial nature. The mere „supervision” or „regulation” as such by a statute or otherwise of a body would not make that body a “public authority” within the meaning of Section 2(h)(d)(i) of the RTI Act.*

*In other words just like a body owned or body substantially financed by the appropriate government, the control of the body by the appropriate government would also be substantial and not merely supervisory or regulatory. Powers exercised by the Registrar of Cooperative Societies and others under the Cooperative Societies Act are only regulatory or supervisory in nature, which will not amount to dominating or interfering with the management or affairs of the society so as to be controlled.*

*Management and control are statutorily conferred on the Management Committee or the Board of Directors of the Society by the respective*



*Cooperative Societies Act and not on the authorities under the Co-operative Societies Act.*

*45. We are, therefore, of the view that the word “controlled” used in Section 2(h)(d)(i) of the Act has to be understood in the context in which it has been used vis-a-vis a body owned or substantially financed by the appropriate government, that is the control of the body is of such a degree which amounts to substantial control over the management and affairs of the body.”*

In the aforesaid circumstances as the said regulations were not framed for establishing the Devasthan and as said regulations are only for regulating the governance of hindu temples , it cannot be held that the respondent nos.1 and 2 are constituted under the state act.

20) The next requirement of a public Authority is “*control or substantial finance from the Government*”.

According to appellant the respondents nos.1 and 2 are controlled by the Government. To substantiate his submissions the appellant in his arguments has cited Various articles of the said Regulations where under Administrator has been granted powers to approve budgets, dissolve the body. The appellant also has the submissions that under various articles of the regulation the government can exercise powers for superseding the committee, approval of the budget, action against employees etc. The powers and nature of duties of Administrator are covered under Chapter-I of Title-II of the regulations. Said provision reads:

***“Relating to the Administrator***

*Art. 70—It shall be incumbent on the Administrator of Talukas (concelho) as Administrator of the bodies of members (mazanias):*

*1)To watch over the execution of this Regulation and of the bye -laws, and over the strict discharge of the duties that belong to their subordinates;*

*Art. 71.-----*

*Art. 72-----*

*Art; 73 -The Administrators shall receive the fees prescribed under the schedule annexed to this Regulation, besides half the amount of common*

*fees, after the deduction of expenses mentioned in the respective schedule for the service of administrative executions.*

*Para \_\_ The common fees shall be divided quarterly and those towards audit of accounts shall be withdrawn after the same accounts are audited by the office of Administrator concerned.”*

Thus on a careful scrutiny of the above provision it is revealed that the said powers are granted only for the purpose of watching the execution of the regulations which regulates constitution of committees, finance, budget, management of assets etc. The fees for such functions are payable to the administrator by the Mazania and not by Government. There are no powers under the regulation authorizing Government to take over the management of the Mazania. On the contrary Article 45 read with para thereto grants powers to the Administrator to replace the dissolved committee till the election from the capable members from the respective list. The said provision does not confer powers to the administrator to take over the management.

21) For the purpose of holding that the body is **substantially financed** by the government the funds should be substantial and for the day to day functioning of the authority.

Under the Regulations the nature of funds and regulation thereof are contained at Article 77. The type of receipts contemplated there under are the rents, income from shares interest on capital, annual rents (forro) and contingent receipts. The said provision does not contemplate any receipt by way of funds from the government.

22) The appellant has emphasized that the Government has undertaken certain developmental activities in the precincts of the Devasthan like undertaking illumination works, constructing toilets, developing nallah, beautification of temple precincts etc. In the said case of *Thalappalam Service Coop. Bank Ltd.* (*supra*) Hon’ble Supreme court, while considering the nature of finance for constituting substantial finance received by such authorities at para (48) thereof has held: “48. *Merely providing subsidiaries, grants, exemptions, privileges etc.,*

*as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist. The State may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD etc., but those facilities or assistance cannot be termed as “substantially financed” by the State Government to bring the body within the fold of “public authority” under Section 2(h)(d)(i) of the Act. But, there are instances, where private educational institutions getting ninety five per cent grant-in-aid from the appropriate government, may answer the definition of public authority under Section 2(h)(d)(i).*

Thus by applying the said ratio, though the benefits of such works is used by Devasthan, the said works are undertaken by the Government itself. In other words the Government has not financed respondents for undertaking said works but has granted benefit of some of its schemes to the Devasthan. Such grant of scheme to my mind itself cannot be construed as substantial finance by the Government.

23) There is one more aspect of the act which also requires a consideration for the purpose of the arriving at the finding whether the respondents nos.1 and 2 is public Authority. Under section 19(1) of the act the first appeal against the response of the PIO is provided to the appellate authority. Such appeal is required to be preferred to such an officer who is senior in rank to the PIO in each public authority. If one considers the hierarchy of the officials as is Recognized under the regulations, the management is undertaken by the elected representatives in terms of Article 40.It comprises of chairman, treasurer, attorney and their substitutes .Distinct duties are assigned to each of them. All the said office bearers are equal in powers and function collaterally. There is no member in the said institution to be qualified as a senior officer to be qualified as Appellate Authority.

24) In the facts and circumstances and considering the nature of the regulations and the Functioning of the respondents nos.1 and 2, I find that the respondent

No.1 and 2 are neither constitutional bodies, nor constituted under any central or State act. The powers which are permitted to be exercised by the Government authorities are only supervisory in nature and hence such powers cannot constitute a control over the Respondent Nos. 1 and 2. I also do not find any substantial finance received by said respondents from the Government. In the result I hold that the respondents" nos.1 and 2 are not Public Authorities as defined under section 2(h) of The Right to Information Act 2005. In the light of the above finding the reliefs of the appellant cannot be granted.

The appeal disposed accordingly.

Parties to be notified.

Pronounced in the open proceedings.

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2. The following are some important Judgments passed by the State Information Commissioner, **Smt. Pratima k. Vernekar**.

**1. Appeal No.13/2017**

Yogesh Raythatha

No.3 ground floor, Seagull Apt.

Bernardo Guedes Road,

Near Market Panaji Goa.

.....Appellant

V/S

1. The Public Information Officer,

The Dy. Commissioner,

Corporation of City of Panaji Goa,

CCP Building, Panaji -Goa.

2. First Appellate Authority

The Commissioner,

Corporation of City of Panaji Goa,

CCP Building, Panaji -Goa.

.....Respondents

## **ORDER**

1. By this appeal the appellant assails the order, dated 9<sup>th</sup> November 2016, passed by the Respondent No.2FAA in first appeal in case No. RTI/Appeal/8/2016/ 4872 , filled by the appellant herein .
- 2.The facts in brief which arises in the present appeal are that the appellant Shri Yogesh Raythatha , by his application ,dated 20/7/16, sought certain information from the Respondent no.1 PIO of corporation of the city of panaji , as stated therein in the said application. The said information was sought by the appellant in exercise of his right under section 6(1) of the Right to Information Act, 2005 .
- 3.On the receipt of the said application by the Respondent no.1 PIO ,he vide letter dated 16/8/16 provided the information at point no.(1),(2), and (4) and with regards to point no.(3) and (5) it was informed to the appellant that he was required to pay Rs 46/- and Rs 500/- per receipt respectively for obtaining the copies of the same .
4. It is the case of the appellant that as unreasonable fees of Rs 500/- per receipt were told to pay for information at point no.5, the appellant preferred first appeal before the Respondent no.2 FAA and the Respondent No.2 FAA was pleased to dismiss the appeal on 9/11/16 by upholding the say of PIO.
5. Being aggrieved by the action of both the respondents , the appellant have approached this commission on 31/1/17 by way of second appeal filed u/s 19 (3) of the RTI Act .
6. In pursuant to the notice of this commission , the appellant was present in person . The Respondent No.1 Plo was represented by Shri Deepak Satardekar and Respondent no.2 FAA by Shri Malik on initial two hearings who despite of given undertaking to file letter of authority and reply of respondents , failed to do so and also opted to remain absent on the subsequent dates of hearing .Opportunities were granted to both the respondents to file their say , as no say came to be filed by both the respondents it is presumed that they have no say to offer .

7. However on 18/8/2017 Advocate J. Lohar appeared and on 13/9/2017 Advocate Kapil Kerkar appeared and submitted that he does not desire to file written reply and desires to argued the matter orally .
8. It is the contention of Advocate Kapil Kerkar that as a PIO or as a commissioner, he is not legally empowered to challenge resolution passed by the CCP and on the contrary he is bound to comply with the resolution, hence appellant was directed to pay amount of Rs. 500/- per receipt.
9. The appellant has challenged the order passed by the FAA on several grounds as raised in the memo of appeal.
10. The question for my determination is whether the Respondents were justified in quoting such fees ?
11. On perusal of the order of FAA ,it is seen that the FAA has passed an order basically by taking into account the minutes of the special meeting of the corporation dated 25/4/13 wherein the resolution was passed for charging certain fees for document.
12. On perusal of annexure (D) relied by the appellant i.e copy of the minutes of special meeting 24/5/13 of the corporation of the city of Panaji it could be gathered that the revised rates charged for financial year 2013-14 onwards were for the issuing duplicate receipt copy of house tax and other documents etc and not for the purpose of regulating the fees under the RTI Act. In the circumstances the same resolution cannot be considered as rules of the said authority for the purpose of RTI.
13. Section 27 and section 28 of the right to information Act confers powers on the appropriate government and competent authority to frame rules to enforce the provisions of the RTI Act .
14. In exercise of the powers conferred by section 27 of the RIT Act,2005 , the Government of Goa framed rules called the Right to information Act (Regulation of fee and cost ) rules 2006 , which were duly amended from time to time by the government of Goa . The said were duly published in the official gazette .

Under sub-clause (2)(a) and (b) of rule 3 ,an amount of rupees two for each page (in A-4 or A-3 size paper ) and actual charge or cost price of a copy in larger size paper is prescribed . Rule 4 provides for charging high fees than specified under rule 3 . However the said rules has to be read with sub-section( 5 ) of section 7 of the Right to information Act and cannot be read in isolation. Sub-section (5) of section 7 states that “ fees prescribed under sub-section (1) of section 6 and sub-section (1) and (5)of section 7 shall be reasonable “

15.In the present case the respondents have not produced copy of the gazette publishing such rules by them in exercise of their powers conferred by section 28 of the right to information Act,2005 .

16.The reply of respondent no.1 pio dated 16/8/16 given u/s 7 of the act reveals that for 6 receipts the appellant was told to pay Rs 500/-per receipt . If once calculates such total cost, Rs 3000 was required to be deposited for seeking the said information ,in my opinion such an amount was not an reasonable fees as contemplated under the right to information Act.

Further on the basis of minutes of special meeting dated 25/4/13 of the corporation of the city of panaji ,the appellant was told to pay such extraorbidient fees by the PIO is contrary to the letter and spirit of the RTI Act. The said act is people friendly act which has come in force to promote transference and accountability in the working of the public authorities. The very mandate of the RTI act is to provide information which is not exempted u/s 8 of the said Act .

In the above given circumstances , I hold that the Respondent s has erred in not following the procedure prescribed for levy of fees under the rules framed by the Government of Goa nor has pointed out any regulation framed by CCP for the purpose of levy of fees under the Act. Hence the following order

### **Order**

Appeal is allowed

a.The order dated 9/11/16 passed by the Respondent no.2 FAA is quashed and set aside

b.The Respondent No. 1 PIO is hereby directed to furnish the information at point No.5 as sought by the appellant vide his application dated 20/7/16, by levying him fees as are prescribed for furnishing of the information at rule 3 of the Goa right to information (Regulation and fee and cost ) Rules ,2006 within 15 day after the payment is made by the appellant .

c. Respondent no.1 is also hereby directed to intimate the cost of providing the said information to the appellant within 10 days from the date of receipt of this order .

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided under the Right to Information Act 2005.

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## **2. Appeal No. 162/2016**

Trajano D'Mello,  
Opposite Peddem Sports Compex,  
Mapusa Goa.

.....Appellant

**V/s.**

1.  
Public Information Officer,  
O/o Commissioner of Commercial taxes,  
Vikrikar Bhavan, panaji Goa.

2.  
Commercial Tax Officer,  
Panaji Ward, Panaji Goa.

..... Respondents

## **ORDER**

1.The second appeal came to be filed by the Appellant Shri Trajano D'melo on 29/8/16 against Respondent No. 1 PIO, of the office of Commissioner of Commercial taxes, Panaji and against Respondent No. 2 Commercial tax officer u/s (3 ) of section 19 of the RTI Act 2005.



2.The brief facts leading to the second appeal are that the appellant vide his application dated 26/4/16 had sought for the information about , commercial tax levied and paid by the organiser of “ Sunburn” EMD festival for the year 2013-14, 2014-15 and 2015-16 on seven points as stated therein in the said application.

3. The Respondent No.1 PIO thereafter transferred the said application to the Respondent No. 2 commercial tax officer, Panaji Goa on 10/5/16.

4. The Respondent No. 2 herein vide his letter dated 27/5/2016 rejected the said information by quoting section 79 of Goa Valued Added Tax , 2005 read with section 8(d) of the RTI Act 2005.

5.Being not satisfied with the reply of respondent No. 2, the appellant filed first appeal before the commissioner of commercial tax on 28/6/16,being first appellate authority and the first appellate authority by an order dated 28/6/16 was pleased to dismiss the appeal of the appellant by upholding the say of Respondent No. 2 .

6.Being aggrieved by the action of both the Respondent s the present appeal came to be filed with a prayer for direction to the respondent No. 2,for providing him information as sought by him to him and for invoking penal provision u/s 20(1) RTI Act 2005.

7. After notifying the parties ,the matter was taken up on board . In pursuant to the notice, appellant appeared in person.Respondent PIO No. 2 Ms Asha Harmalkar was present and on behalf of Respondent No. 1 Smt. Prassana Halnekar was present.

8. Reply filed by Respondent No. 2 PIO on 15/5/17 alongwith a enclosure. Copy of the same was furnished to the appellant .

9. Arguments were advanced by the parties .

10. It is a case of a appellant that he had learned from the Media and other sources that though “Sunburn” EDM,festival organizers organizes EDM festival every year from 2013 onwards and earns huge money they are not paying the government dues regularly as such to avoid the loss of Government treasury he had filed a Public Interest Litigation (PIL) before the Hon’ble High Court of Bombay at Goa which was registered as PIL . W.P. No. 24/14 and the Judgment was passed by Hon’ble High court on 17/12/17. It is his further case that Hon’ble High court

while pronouncing the Judgment had passed strictures against the “Sunburn” the EDM Organisers and state authority for not recovering the taxes promptly. He further stated that the Hon’ble High Court also came to the conclusion that the amount assessed and payable by the said company far exceeds the prima facie the amount standing in the security deposit with the said Government .

He further submitted that the Hon’ble High Court also made clear to ensure that the amount payable from the EDM company should be recovered as expeditiously as possible. He took my attention to the para 14 of the said Judgment where the said observations are reflected.

The appellant also submitted that since nothing was done by the concerned authorities, he again approached the Hon’ble High court and his petition was registered at stamp number Main No. 3399/2016. and the Hon’ble High Court has disposed the said petition by an order dated 4/11/16. He took me to the para 14 of the said judgment .

The Hon’ble High Court has held that “if there is no legal impediment like stay from the appellate authority or tribunal there is no reason as to why the state authorities should not take expeditious steps to recover such amount particularly in the light of the directions issued by the court while disposing PIL Writ Petition No. 24/14, accordingly such directions are reiterated “.

The appellant further submitted that the Ld. Advocate General also handed over a chart disclosing the amount payable towards the police bandobast and service tax for a musical festival from 2010 to 2015 before the Hon’ble High Court in IPL Writ Petition No. 24/16 filed by him and in support of his contention produced the copy of the Judgment passed by the Hon’ble High Court of Bombay at Goa in PIL Writ Petition No. 24/2016, wherein it has been held by the Hon’ble High Court at para 6 “Even pendency of issue cannot be a reason for the state or its authorities not asked for dues /arrears of taxes of such amount. It is its obligation to recover the tax in accordance with the law”.

As such, it was contended by the appellant that being he is the petitional in those cases he has a legal right to know whether statutory dues and other dues are recovered by the state authorities as per the direction of the Hon’ble High Court ,

which he had sought in a larger public interest by way of the above RTI application.

It is his further case that he is neither a rival company of a “Sunburn”, EDM organizers neither who want to use this information to dilute commercial confidence, trade secrete or intellectual property of the organisers. It is his case that there is a lethargic attitude on the part of the State Government in recovering statutory dues from the EDM Organisers as such grave losses to the public exchangers have been caused . It is his case that he requires such information to seek appropriate order from the court to instruct the state government and to recover statutory and other due on urgent basis from EDM organizers, as such the disclosure of information is warranted in the larger public interest.

In nutshell it is the grievance of the appellant that there is inaction on the part of the state authorities in recovering the dues and as such he had sought for the said information in the larger public interest.

11.Respondent PIO contended that the said information cannot be disclosed in terms of section 79 of the Goa value added tax 2005 read with section 8(1)(d) and 8(1) (e). It is their further case that the commercial tax department collect the information from his dealer in fiduciary capacity and the sunset gateways company vide their letter dated 19/5/16have objected for disclosure of the same . It is their further case that the Hon’ble High Court nowhere directed to the Department or any other officer of the department to provide information to the appellant.

12. The third party namely M/s Sun set Getways vide letter dated 19/05/2016 objected for disclosure of information to the appellant on the ground that all the financial data, information and content are confidential in nature and if the said is passed to the appellant, grave harm will be caused to their company . It was further contended that said information is exempted U/s 8 and Section 11 of the Act from disclosure.

13. I have considered the submissions of the parties and also the documents available on the records including the letter dated 19/5/2016 and the objection raised by the third party i.e. sunset Getways company organizers of sunburn Goa

Musical Festival in disclosing the said information and as such no separate notice was issued to the third party.

14. In view of rival contention the issue arises for my determination are as under:

- i. Whether RTI Act 2005 overrides various provisions of special statutes which confer confidentiality in the information obtained by the Public authority and such special statutes would repeal or overruled by the RTI Act 2005?
- ii. Whether there was a fiduciary relationship existing between the Respondents and the EDM company whose information was sought by the appellant ?
- iii. whether appellant has sought information in larger public interest?

15. In an land mark case “ reserve Bank Of India” and others V/s Jayantilal N. Mistry and others; ( Civil )Original Jurisdiction in transferred case (Civil) No. 91 of 2015 (Arising out of transfer petition (Civil) No. 707 of 2012 )” . upheld the orders passed by the central information on the issue whether the Public authority under right to information Act, 2005 can deny information to the public on the basis of certain legal exemptions; Public at economic interest, committed confidence and fiduciary relationship? and whether giving information to the general public would be detrimental to the economic interest of the country?

The apex Court , at relevant para 43 has held “*The submission of the RBI that exception s be carved out of the RTI Act regime in order to accommodate provisions of RBI Act and Banking Regulation Act is clearly misconceived . RTI Act 2005 contains a clear provision (section 22) by virtue of which it overrides all other Acts including official secrets Act. Thus, notwithstanding anything to the contrary contained in any other law like RBI Act or Banking Regulation Act, the RTI Act, 2005 shall prevail insofar as transparency and access to information is concerned. Moreover, the RTI Act 2005, being a later law, specifically brought into usher transparency and to transform the way official business is conducted, would have to override all earlier practices and laws in order to achieve its objective. The only exceptions to access to information are contained in RTI Act itself in section 8*”.

At relevant para 55, 56,57 the apex Court took a detailed review on the definition of fiduciary relations and have discussed what amounts to fiduciary relationship.

They have specified the criteria under which the parties can claim of having fiduciary relations.

At relevant par 62 The Apex Court has observed “the exemption contained in section 8(1) (e) applies to exceptional cases and only with regards to certain pieces of information, for which disclosure is unwarranted or undesirable. If information is available with a regularity agency not in fiduciary relationship, there is no reason to withhold the disclosure of the same. However, where information is required by mandate of law to be provided to an authority, it cannot be said that such information is being provided in a fiduciary relationship. As in the instant case, the financial institutions have an obligation to provide all the information to the RBI and such an information shared under an obligation/duty cannot be considered to come under the , purview of being shared in fiduciary relationship is “ Trust and Confidence”. Para 68 it has been held “Even if we were to consider that RBI and the Financial institutions shared a “fiduciary Relationship”, Section 2(f) would still make the information shared between them to be accessible by the public. The facts reveal that Banks are trying to cover up their underhand actions, they are even more liable to be subjected to public scrutiny”.

At relevant para 75 to Apex court has held “The ideal of ‘Government by the people’ makes it necessary that people have access to information on matters of public concern. The free flow of information about affairs of Government paves way for debate in public policy and fosters accountability in Government. It creates a condition for ‘open governance’ which is a foundation of democracy”.

16. The ratio laid down in above judgment is squarely applicable to the facts of the present case . The RTI Act is a central Act which came into force on 15/06/2005, subsequent to the value added tax , 2005 which is a local legislation enacted by the State Government. The relation between the Public Authority and the concerned company does not come within the ambit of definition of Fiduciary relationship as interpreted by the apex Court in the above Judgment.

In the present case neither the respondent No. 1 PIO or Commercial Tax Department nor the Sunset Getways are required to act in the interest of each other.

Never the less Section 8(d) also states that the information can be disclosed if larger public interest warrants.

17. In writ Petition (MD) No. 5427, V.V. minerals V/s Director of Zeology at relevant para 12 has held that.

“When the third Respondent as an information officer, ordering notice to the petitioner and taking their objections and refusing to furnish the documents sought for by a citizen is clearly beyond the scope of the RTI Act. If the information is available with the state and such information is in exclusive custody of the state, the question of seeking any opinion from the third party on such issues may not arisen , especially when they are public documents. By disclosure of such information, no privilege or business interests of the petitioner are effected. On other hand, such a disclosure may help any party to act upon those documents and take appropriate steps ”.

At Para 14,it has been held “ even if Commercial confidence, trade secrets, which disclosure will harm competition position of the third party ,the section do not prescribe any total bar and it is for the competent authority to be satisfied with a larger public interest, which warrants the disclosure of such information”.

At Para 16,Apex Court held “It is clear that when RTI Act was enacted it does not give any full immunity for disclosure of a third party document. But on the other hand, it gives the authorities under RTI Act too weight the pros and cons of weighing the conflict of interest between private commercial interest and public interest in the disclosure of such information”.

At Para 17,It has been held “Therefore, no total immunity can be claimed by any so called third party. Further, it is not a matter covered by section 8(1)(d) of the Act, the question of any denial by the information officer does not arise”.

At Para 19, It has been held” If a person, who seeks for documents, is a business competitor and if any trade secret is sought for , then such document may be denied. But regarding a public documents, if sought for by an individual whatever the motivation of such to check individual in seeking document has no relevancy as the Central RTI Act had not made any distinction between a citizen and so called motivated citizen”.

18. Yet in another decision i.e. Union of India V/s Balendra Kumar W.P. (C)120/2010 and CM APPL233/2010 in the High Court of Delhi has held “Public interest in ordering disclosure outweighed any right to privacy with reference to section 11(1) read with section 8(1)(j) of RTI Act”.

19. In the present case . The appellant herein has established that the information is required by him in the larger public interest .

20. Moreover in my opinion the information sought by the appellant cannot come under exemption as provided u/s 79 of value added tax 2005 ,as the information sought is neither particular of any statement nor returns or accounts or documents submitted by the company . What is sought is only the summary due and /or the quantum of taxes due and collected by department from Sunset Getways .In my opinion that the disclosure of the said information sought will also not adversely effect the economic interest of the state.

21. The Hon’ble High Court of Delhi -Writ Petition (c) 3660/12 Union of India V/s Vishwas Bhampurkar has held “ The right to information Act is a progressive legislation aid at providing, to the citizens access to the information which before the said Act came into force, could not be claimed as a matter of right . The intent behind enactment of the Act is to disclose the information to the maximum extent possible subject of course to contain safeguard and exemption. Therefore while interpreting the provisions of the Act, the court needs to take view which would advance the objective behind enactment of the Act, instade of taking a restrictive and hyper technical approach which would obstruct the flow of information to the citizen”.

22. Yet in another decision the apex court in S.P. Gupta V/S Union of India ,AIR 1982 SC 149 has observed “ No democratic Government can Survive without accountability and the basic postulate of accountability is that people should have information about the functioning of the Government, that an open Society is the new democratic culture towards which every liberal democracy is moving and our society should be no exception. The concept of the open Government is the direct emanation from the right to know which seems to be implicit in the right of freedom of speech and expression guaranteed under

Article 19(1) (a). Therefore, disclosure of information in regards to the **functioning of the Government must be the rule, and secrecy an exception**, justified only where the strictest requirement of public interest so demands”.

23. Based on the above decision and taking into consideration the facts of the present case disclosure of the information is required in the larger public interest as such I find merit in the appeal . Hence the following order.

### **ORDER**

1.The respondent No. 2 is hereby Directed to furnish clear and complete information to the appellant as sought by him vide his application dated 26/4/2016 within three weeks free of cost on the receipt of the order.

2. Rest prayers are not granted.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005. Pronounced in the open court.

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### **3. Appeal No.237/2017/SIC-I**

Dr. Ashutosh Prabhu Dessai,  
Associate Professor IPHB,  
Res. Address;1/4 Namrata Building,  
Cardozo Wado,  
Taleigao Panaji Goa.

.....Appellant.

V/s.

1.Public Information Officer  
(PIO),Deputy Director IPHB Opp. Holy Cross,  
IPHB Bambolim Goa.

2.Assistant PIO IPHB, Opp. Holy Cross,  
IPHB Bambolim Goa.

3.The First Appellate Authority (FAA),  
Director IPHB Opp. Holy Cross,  
IPHB Bambolim Goa.

..... Respondents



## **ORDER**

- 1.The brief facts leading to present appeal are that the appellant Dr. Ashutosh Prabhu Dessai by his application, dated 5/5/2017, filed u/s 6(1) of The Right to Information Act ,2005 sought to inspect, and to select papers and the copies of documents/information from the file processing with regards to appellants confidential letter dated 16/3/2010 addressed to the Director of the IPHB /Dean Bambolim and also sought to know the action taken on the said confidential letter dated 16/3/2010. The Said information was sought from the Respondent No. 1 PIO of the office/ Department of IPHB.
- 2.It is the contention of the appellant that he received letter dated 30/5/2017 from Respondent No. 1 PIO by post on 1/6/2017 seeking clarification .
3. It is the contention of the appellant that in pursuant to the letter of PIO, he provided the details to the Respondent No. 1 PIO vide covering letter dated 5/6/2017 thereby also enclosing the confidential letter dated 16/3/2010.
4. It is the contention of the appellant that despite of providing him the details, he did not receive any reply until 6/7/2010 from Respondent No. 1 PIO.
- 5.As the information as sought was not furnished, the appellant filed first appeal to the respondent No.3 being the first appellate authority on 6/7/2017.
- 6.It is the contention of the appellant that on 10/7/2017 he received a letter dated 4/7/2017 from Respondent No. 1 PIO transferring his application dated 5/5/2017 and its enclosure dated 16/3/2010 to the PIO ,Director (ADM), Goa Medical College.
- 7.It is the contention of the appellant that he had to make many letters to the respondent No. 3 First appellate authority as FAA did not dispose the first appeal within stipulated time.
- 8.It is the contention of the appellant that he received a copy of the letter dated 14/8/2017 from the PIO of Goa Medical college and Hospital Bambolim informing him that his confidential letter dated 16/3/2010 is forwarded back to IPHB vide their dispatch No. 1164 dated 19/3/2010.
- 9.It is the contention of the appellant that respondent no. 3 first appellate authority passed an interim order directing the respondent No. 1 PIO to make

attempt to locate the letter in office records within period of 20 days. An final order was passed by the respondent no. 3 first appellate authority on 28/9/2017 by coming to the conclusion that information sought cannot be provided as the PIO was unable to trace the said letter .

10. In the above background the appellant being aggrieved by said response of PIO and order of FAA, has approached this commission in this second appeal u/s 19(3) of the act on 27/12/2017 with the contention that the information is still not provided and seeking order from this commission to direct the PIO to furnish the information as also for other reliefs, including compensation.

11. Notices were issued to the parties, pursuant to which appellant was represented by his wife Mrs Srishti Prabhu Dessai. Respondent no. 1 PIO Smt. Anita Fernandez and Respondent No. 3 Shri Pradeep Naik appeared and filed their respective replies on 29/1/2018 alongwith enclosures.

12. It is the contention of the appellant that his transfer of application dated 5/5/2017 to Goa medical college by the Respondent no, 1 PIO was unwarranted and unjustified and was wrong. And Such an transfer of the said application belatedly after the first appeal was filed, is gross violation of the RTI Act and appears to have been done with ulterior motive to delay and to deny the information sought by him. It is the further contention that it is the duty of PIO and APIO of IPHB to maintain official records as per the act and if the records are untraceable the respondent should have fix the responsibility of the concerned staff who was maintaining the records and should have taken appropriate action as per CCS Rule for failure to safe guard records. It is his further contention that the first appellate authority should have directed Respondent no. 1 & 2 to hold a departmental inquiry for said missing records and should have directed to register FIR and vigilance inquiry against concerned person. It was further contended that the Respondent should be directed to produce the out register and inward register of the IPHB.

13. The respondent No. 3 first appellate authority vide his reply dated 29/1/2018 contended that he has passed interim order and final order and since the PIO

was unable to trace the documents, PIO could not provide the information to the appellant.

14. The Respondent No. 1 PIO vide her reply dated 29/2/2018 has contended that she was holding a main charge at Goa dental College and Hospital and a additional administrative duties were allotted to her at Institute psychiatry and Human Behavior . It is her contention that efforts were made to trace the letter and that she even contacted the earlier PA to the Director and inquired about the said letter , however, no clue have been obtained. She further contended that all the cupboard of PA and the Dy. Director (Admn)and personal files in the Administrations were checked. She further contended that a note was sent to medical superintendent and professor and HOD and replies in this respect including that of PA have been received stating that the said Documents is not available in any of their related files. In support of her above contention she has relied the replies of respective authorities which are exhibit “I” It is her further content ion that there is no ulterior motive or malafide intention to withhold the information /documents or not to allow inspection of requested notings/files as the appellant was very well aware that his letter dated 16/3/010 was not traceable in the year 2010 itself and in support of said contention she had relied upon exhibit “K” , the copy of the outward register at entry No. 1164 dated 19/3/2010 and the other documents were enclosed to the said replies .

15. She further contended that said confidential letter was made to place on record certain facts and not sought any relief as such question of taking any action on said letter does not arise at all.

16. I have perused the records and also considered the submissions of the parties.

17. In the nutshell It is the contention of PIO that the records are missing and not traceable .It is not the contention of the PIO that the said information is destroyed based on any order or as per the law or that records are weeded out as per the procedure . Besides that mere claim of “non availability of records “has no legality as it is not recognized as exception under the RTI Act. If the

file/documents are really not traceable, it reflects the inefficient and pathetic management of the public authority.

18. In this case it is only the lapse and failure of the authority to preserve the records which has lead to non traceability of the file /said confidential letter. From the above it appears that the authority itself was not serious of preservation of records. Such an attitude would frustrate the objective of the act itself.

19. It is quite oblivious that appellant has suffered lots of harassment and mental agony in seeking the information and pursuing the matter before different authorities

20. The Honble High court of Delhi in writ petition © 36609/12 and CM 7664/2012 (stay) in case of Union of India V/s vishwas Bhamburkar has held “It is not uncommon in the Government departments to evade the disclosure of the information taking the standard plea that the information sought by the applicant is not available. Ordinarily, the information which at some point of time or otherwise was available in the records of the government should continue to be available to the concerned department unless it has been destroyed in accordance with the rules framed by the department for destruction of old records. Even in the case where it is found that desired information though available at one point of time is now not traceable despite of best efforts made in the regards , the department concerned must fix responsibility for the loss of records and take action against the officers /official responsible for the loss of records .unless such a course of action is adopted , it would not be possible for any department /office, to deny the information which otherwise is not exempted from the disclosure “.

21.Considering the above position and the file/documents/ said confidential letter dated 16/3/2010 is not traced till date, I am unable to pass any direction to furnish information as it would be redundant now. However that itself does not absolve the PIO or the public authority concerned herein to furnish the information to the appellant. An appropriate order therefore is required to be passed so that the liability is fixed and records are traced.

22. Further as per the definition of information and also terms of ratio laid down by the Apex Court in civil Appeal No. 6454 of 2011 Central Board of Secondary Education V/s Aditya Bandhopadhyaya (at para 35) and in case of Peoples Union for Civil Liberties V/s Union of India AIR Supreme Court 1442 ; it could be gathered that if the public authority has any information in the form of data or analysed data or abstracts or statistics , an applicant may access such information ,subject to the exemptions in section 8 of the Act . In the present case there is nothing on record to show that the said confidential letter was processed further for appropriate action, as such I am of the opinion that no any directions to provide the information on both the points can be issued.

23. The respondents have not acted in conformity with the RTI Act, 2005. The Respondent PIO despite of providing clarification by the appellant on 5/6/2017 have failed to respond the said Application filed by the appellant u/s 6 (1) of the RTI Act and also erred in transferring the said application to the PIO of Goa medical College. The first appellate authority ought to have disposed the first appeal maximum within 45 days . From the records it could be gathered that the first appeal was not disposed within the period of 45 days. Hence the act on the part of the Respondents herein is condemnable. However as there is nothing on record to show that such act on the part on the Respondent is persistent, a lenient view is taken in the present proceedings and Respondents are directed to be vigilant hence forth while dealing with the RTI matters.

24. For seeking compensation , the burden lies on the claimant to produce evidence sufficient to grant compensation. The appellant herein have failed to exhibit in what manner prejudice has been caused to him. Hence , as there is no evidence of detriment or losses suffered by the appellant , the relief of compensation sought by the appellant cannot be granted.

25. In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following:

### **ORDER**

a) The Director of IPHB or through his representative shall conduct an inquiry within four months regarding the said missing document/file pertaining to the

confidential letter dated 16/3/2010 of the appellant to the Director/Dean of IPHB and fix the responsibility for missing said documents/file. The director of IPHB shall also initiate appropriate proceedings against the person responsible as per his/her service condition. A copy of the report of such inquiry shall be sent to the appellant and the right of the appellant to seek the same information from the PIO free of cost is kept open, after the said file is traced.

b) The Public authority concerned herein also shall carry out the inventory of their records within 3 months and are hereby directed to preserve the records properly.

c) The Public authority may also appoint Records officer for the purpose of maintaining and preserving the official records.

With the above directions, the appeal proceedings stands closed.

Notify the parties.

Pronounced in the open court.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

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#### **4. Penalty 07/2018 In Appeal No.182/2017**

Shri Kashinath Tari,  
Ramnath Apartment,  
B-2, F-1, Shankarwadi,  
Taleigao-Goa.

.....Appellant

V/s.

1.Public Information Officer  
North Goa Planning & Development authority,  
Mala Panaji Goa.

..... Respondent

## **ORDER**

1.This Commission while disposing the above Appeal vide order dated 22/01/2018 had directed to issue show cause notice to the PIO R.K. Pandita u/s 20(1) of RTI Act for not responding application within stipulated time and for delaying the information . vide said order a showcause notice was issued to the Public Authority concern herein i.e the office of North Goa Town and country Planning Department ,Mala ,Panaji as to why it should not be ordered to compensate the appellant as contemplated u/s 19(8)(b) of the Right to Information Act,2005.

2.In view of the said order the proceedings should converted into penalty proceedings.

3.In pursuant to the said Showcause notice,dated 1/2/2018 the PIO R.K. Pandita was present along with Advocate H.Naik and filed his reply on 22/2/2018. On behalf of public authority reply is filed on 1/3/2018.

4.Arguments were advanced by Advocate H. Naik and also filed written synopsis on 23/3/2018 on behalf of both the Respondents .

5. I have scrutinized the record available in the file and also considered the submissions of the parties.

6.The PIO has contended that he has responded the application of the applicant within 30 days and requested to appellant to provide specific reference of the permission granted by NGPDA . It was further contended that in pursuant to the appellant s letter dated 1/12/2016, the PIO alongwith the other staff made through search and made every attempt to trace the relevant file however they could not trace out the relevant file. It was further contended that since the information was not traceable the same could not be provided to the appellant and the letter to that effect remained to be address to the appellant. It was further contended even such a letter was addressed by Respondent no. 1 it could have only mentioned the fact that the files could not be traced. It was further contended that during the pendency of the first appeal also he along with other officials continued the efforts to trace the relevant file and some where in august 2017 he was able to trace the file and as such the letter dated 22/8/2017was

made to the appellant. It was further contended that even after the appeal came to be filed before this commission he alongwith other officials tried to trace the other two files however could not locate the same.

7. In the nutshell it is the case of the Respondent PIO that the information sought pertains to year 2004 and it is only on account of that files are not traceable he was unable to provide the information to the appellant . It was further contended that provision of section 20(1) is not applicable as the file is not traceable and therefore it cannot be said that PIO has not furnished the information malafidely or deliberately. It was further contended that he was under bonafide belief that he will carry search of the files in respect of which information was sought and only there after provide information as such it is his contention that he has not replied to appellant within 30 days time.

8. On scrutinizing the records it is seen that the part of the information came to be furnished to the appellant on 13/12/2017. The other information was not furnished on account of not traceability of the files. There is a delay approximately 11 months in providing part of the information. The Respondent PIO did not bother to respond to the letter of the appellant dated 1/12/2016 , nor intimated the appellant at the initial stage itself that the records are not traceable and efforts have been made to trace the records . The reply of the Respondent PIO is also not supported by the affidavits of the other officials of the said authority, who had assisted him in locating the file nor he elaborated what was the steps taken by him and when it was taken.

9. It appears that Respondent PIO belatedly , has taken exercise of tracing the files and was successful in tracing one of the file bearing No. PPDA/TIS/DEV/248/350/04 dated 16/4/2004. If the said exercise would have taken at initial stage itself the hardship caused to the appellant who is an senior citizen could have been avoided . However in the present matter lenient view is taken against PIO as he has taken efforts and has showm his bonafides in locating one file and providing the said information to the appellant. PIO is hereby directed to be vigilant henceforth while dealing with RTI matters and to act in conformity and in true spirit of RTI Act , 2005.



10. It is submitted on behalf of Public authority after one file was traced the appellant was requested to visit the office and collect the information which appellant failed to do so.

11. However the facts remains that the appellant had sought for the said information somewhere in the year 2016 and till date the files pertains to reference No.PPDA/TIS/DEV/03/2833/04 dated 28/7/2004 and No. PPDA/TIS/DEV/169/146/04 dated 6/4/2004 has been reported by the public authority and the PIO as “not traced in the office”. Such lapse has resulted in appellants approaching several authorities including this Commission. It is also seen from the records that First appellate also did not dispose the first appeal despite of reminders by appellant. If First appellate authority would have heard the matter, the fact of non availability of files would have come to light and he being senior officer could have given appropriate directions to his subordinates.

12. If the correct and timely information was provided to the appellant, it would have saved his valuable time and hardship caused to him in pursuing the said appeal before different authorities. It is quite obvious that appellant has suffered lots of harassment and mental agony and torture in seeking information under RTI Act which is denied to him till date. If the public authority has preserved the records properly and if the PIO had taken prompt steps in providing the information, such an harassment and detriment could have been avoided. It appears that the public authority itself was not serious in preservation of records. If such an attitude of public authority if taken lightly would definitely frustrated the very objective of the RTI Act itself and further obstruct in bringing transparency in the affairs of the public authority.

13. The right of appellant has been violated due to non furnishing the information by Public authority. The appellant who is senior citizen herein have been made to run from Pillar to post in pursuing his RTI Application. He had sought the said information with specific purpose. The loss caused to him need not necessarily be calculated only in terms of money. He has vested his energy and valuable time in pursuing the said application. Public authority must introspect that non furnishing the information lands the citizen/information

seeker before first appellate authority and also before this commission resulting into unnecessary harassment of a common man which is socially abhorring and legally impermissible, therefore some sought for compensation help in carrying the social grief, as such I am of the opinion that this is an fit case where request of the appellant for compensation appears to be genuine.

14. Considering the principals of general damage, I find this is an fit case for awarding, compensation to the Appellant which, notionally quantify as Rs. 5,000/-.

15. In the above circumstances, following order is passed:-

#### ORDER

- a) Public Authority concerned herein i.e. NGPDA, Mala, Panaji is hereby directed to pay Compensation of Rs. 5,000/-to appellant within three weeks from the date of receipt of the Order and thereafter to file compliance report to this Commission.
- b) The right of the appellant to seek same information from PIO free of cost is kept open after the said information is traced.

Proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as  
no further

Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

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The following are some important Judgments passed by the State Information Commissioner, Shri. Juino De Souza.

**1. Appeal No. 233/SCIC/2011**

J. T. Shetye,  
Khorlim,  
Mapusa –Goa.

..... **Appellant**

**v/s**

1. Public Information Officer,  
Village Panchayat Latambarcem.

..... **Respondents**

**ORDER**

1. The Appellant Mr. J. T. Shetye is present in person. Respondent PIO of the public authority V. P. Latambarcem Mr. Mukesh Naik alongwith the representative of FAA Mrs. Kalpana Rane, who has furnished a letter of authority which is taken on record of file are both present in person.

2. During the hearing the Appellant submits that the information submitted by PIO is incomplete and incorrect and that this Commission had asked him to prove that the information furnished was incorrect. The Appellant is therefore before the Commission for the purpose of the enquiry.

3. On perusal of the file it is observed that by an Order dated 22/6/2012 this commission had partly allowing the Appeal while in the same breath also stating that no intervention of commission was required as far as information was concerned and that it is for the complainant to prove that the information furnished is incorrect and accordingly the date was given for conducting enquiry.

4. The Commission on examination of the records in the file is of the view that this is an old matter of the year 2012, therefore asking the appellant to prove his case in the year 2016 after a lapse of four years and conducting an enquiry to ascertain whether the information furnished by the PIO to the Appellant is wrong or right is not only a long drawn time consuming process that may take

years for the enquiry to conclude but will also harass the Appellant with delays and unnecessary expenditure, besides not serving any useful purpose and will be an exercise in futility.

5. No doubt while inquiring into a complaint under Section 18, the commission has the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 ( *Judgment of the Supreme Court in the case Chief Information Commr. and Another State of Manipur supra ..para 29*)

6. The Commission while conducting an enquiry will have to follow the prescribed procedure under the Indian Evidence Act including: summoning and enforcing the attendance of persons and compelling them to give oral or written evidence on oath and to produce documents or things; requiring the discovery and inspection of documents; receiving evidence on affidavit; requisitioning any public record or copies thereof from any court or office; issuing summons for examination of witness or documents; and may any other matter which may be prescribed.

7. As stipulated in the RTI Act the role of the PIO is to provide information as available from the records. Regrettably the PIO cannot procure information for the satisfaction of the Appellant/ Complainant. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

8. The PIO or the APIO is not authorized to give any information which is non-existent nor can he create or analyze the information correctly as per the whims and fancies of the Appellant/Complainant. The PIO is only called upon to supply information accurately in accordance with record available without conceding or withholding any information. It is not a case where the PIO has denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information.

9. The very fact that the Commission in its Order 22/6/2012 has held in its findings that no intervention is required as far as information was concerned is sufficient to prove the bonafide that the PIO has acted reasonable and diligently and that has furnished information as was available and as it existed as per the records available and which is the mandate of the RTI act.

10. Therefore I am of the view that after arriving at such conclusion the Commission should have closed the appeal instead of ordering a one sided enquiry by making the Appellant / Complaint to prove his case and which decision in my considered opinion seems erroneous and suffers from legal infirmity.

11. The Commission therefore finds it prudent to recall the part of the order dated 22/6/2012 and accordingly orders the enquiry proceedings to be closed. With these observations the Appeal case is closed.

12. The Appellant if so advised can seek other legal remedies to agitate his grievance that the information furnished was incorrect and misleading before the appropriate forum in accordance with law.

13. The Commission however makes it clear that this Order will not come in the way of the Commission inquiring into a appeal filed under section 18/19 if the findings so deserve an enquiry.

Pronounced in open court at conclusion of the hearing before the parties who are present. Notify the parties concerned. Authenticated copies of the order be given free of cost.

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## **2. Complaint No.31/2017**

Shri Pedrito Misquitta alias Shri John Peter  
Mesquitta,  
H.No.234-B,  
Souza Vaddo, Candolim,  
Bardez, Goa. 403 515  
v/s

**.....Complainant**

### **1.Public Information Officer**

Civil Registrar–Cum–Sub Registrar,  
Mapusa –Bardez –Goa.

**..... Respondent**

## **ORDER**

1. Brief facts of the case are that the Complainant herein has filed a Complaint case against the PIO, Civil Registrar Cum Sub Registrar, Mapusa –Goa registered before the Commission on 04/10/2017 for furnishing false information intentionally without checking the records against order dated 02/06/2017 passed by this commission while disposing Appeal no 147/SIC/2015.
2. It is the case of the complainant that he had submitted an RTI application dated 02/10/2015 asking for all Deeds of Sale executed by one Shri Saluzinho Soares alias Shri Agapito Soares and others as VENDORS pertaining to properties surveyed under 80/3, 80/32 and 82/1 situated at Calangute, Aradi Village of Bardez Taluka executed between 01/05/2001 till disposal of the RTI application.
- 3.The Complainant has stated in the Complaint memo that the PIO on 19/01/2015 had replied to him that 16 Deeds of Sale from 16/06/2009 to 01/05/2015 are found registered in the computer system and to collect them after paying the necessary fees. The Complainant has filed the present complaint praying for invoking penal sections for furnishing false and misleading information thus violating the order passed by the Commission on 02/06/2017.

4. This matter has come up before the commission on two previous occasions and is taken up for final disposal. During the hearing the Complainant is present in person. The Respondent PIO is absent.

5. The Complainant submits that the PIO had filed reply dated 13/12/2018 and that he has submitted his counter reply & arguments dated 21/02/2018 and that the Commission should first pass an order on the said reply by either dismissing or allowing it. The Complainant further states he has no other argument to make.

6. The Commission on perusing the material on record at the outset finds that the Complainant had earlier filed a Second Appeal in this Commission pertaining the same matter being Appeal No.147/SIC/2015 and which was decided by this Commission on 02/06/2017 and all proceedings in the said Appeal have been closed.

In the said order the PIO was directed to give clear answer whether the information as sought by the Appellant pertaining to the year 2001-2011 is available in the records or not. And if so available the copies should be furnished free of cost. It was also stated in the said order that the aggrieved party, if any, may move against the order by way of a writ petition as no further appeal is provided against the order under the RTI act 2005.

7. It is seen that the said PIO has complied with the Order of the Commission by furnishing a reply dated 11/08/2017. In the said reply the PIO has clearly answered in paragraph No. 2 thus: "In pursuance of the said direction passed by the Goa State Information Commission in Appeal No. 147/SIC/2015. I hereby inform you that the information sought by you pertaining to the year from 2001-2011 is not available in the records of the office. In case you are not satisfied with this reply within 30 days, you may file appeal against this to the First Appellate Authority at the State Registrar-cum-Head of Notary Services, Patto, Panaji-Goa."

8. The Commission finds that the PIO has not violated the order dated 02/06/2018 of this commission as is alleged by the Complainant. Further,

the Complainant has not filed a First Appeal with the First Appellate Authority and has approached the Commission directly with a Complaint without exhausting the remedy of First Appeal, as such the Complaint case on this count itself is not maintainable. (*Supreme Court Judgment in CIC vs. State of Manipur & Another -Civil Appeal No 10787-10788 arising out of SLP © No. 32768-32769/2010* ).

9. The Commission has also perused the replies filed by the PIO on 13/12/2017 and the counter reply/ arguments filed by the Complainant dated 21/02/2018.

10. The PIO in his reply in paragraph No. 05 has stated that the Complainant is seeking to obstruct a public servant from performing his duty by filing threatening & frivolous Complaint such as the present Complaint which threatens of penal action on the basis of vague allegations. In para No.7 of the said reply the PIO has stated that the Complaint may be dismissed and strict action initiated against Complainant as he was seeking to obstruct of public servant from performing duty and which appears to be a serious charge.

11. The complainant in his rejoinder has sought to raise extraneous issues by accusing the PIO of cheating by accepting false affidavits from sellers swearing that persons who have executed Power of attorneys are still alive when they are already dead. Such derogatory remarks are totally unwarranted and uncalled for. The Complainant has enclosed with his reply Xerox copies of power of attorney, death certificates, Pan card, Affidavits, Mutations and other such documents. The Commission finds that such documents are not relevant in deciding the present complaint case, moreover the Complainant has not enclosed copy of the RTI application and as such it is not known what exact information he is seeking. Also it is not understood as to why these copies were not produced earlier at the time of the Second Appeal No.147/SIC/2015.

12. In view of the fact that the PIO has furnished a reply dated 19/01/2015 stating that 16 Deeds of Sale from 16/06/2009 to 01/05/2015 are found registered in the computer system and to collect them on payment of necessary fees and a further reply dated 11/08/2017 in compliance with the Order passed by this Commission on 02/06/2017, this is sufficient to prove the bonafide that



there is no malafide intention on the part the PIO to deny or conceal the information , as such the PIO has not faulted in anyway.

13. As stipulated in the RTI act the role of the PIO is to provide information as is available, what is available and if available in the records. The PIO is not called upon to research or to analyze or create information as per the whims and fancies of the Complainant.

14. The RTI Act cannot be converted into a forum for redressing personal Grievances, complaints and its subsequent enquiry and the Commission observes this to be a classic instance of blatant misuse of RTI act where the Complainant has resorted to filing numerous applications, representations and other correspondence which has caused a drain on the public exchequer and also resulted in non -productive work for the PIO who in this case is the Sub - Registrar cum Civil Registrar, Mapusa-Goa who is managing a busy public office and had to collect information, besides attending hearings, filing replies for redressing the grievance of the Complainant. The Hon'ble Supreme Court of India in Civil Appeal No.6454 of 2011, Central Board of Secondary Education & others v/s Aditya Bandopadhyay & others has held as follows:-

*“Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter -productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest official striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and*

*the pressure on the authorities under the RTI Act should not lead to employees of a public authorities prioritizing information furnishing at the cost of their normal and regular duties”.*

**The Commission accordingly finds that the complaint case is totally devoid of any merit and stands dismissed.**

13. This apart, the Commission finds that this same matter has already been agitated before this Commission by way of Second Appeal and that the PIO has complied with the Order passed by this Commission. Since the matter has already been agitated once by way of a Second Appeal before this Commission and the matter disposed , as such the Complainant is precluded by the universal principles of *Res Judicata*(already decided) from agitating the same matter again through a Complaint under section 18 of RTI act 2005.

*Section 11 of the Code of Civil Procedure, 1908 embodies the doctrine of Res Judicata as to the points decided either of fact or of law, or of fact and law, in every subsequent suit between the same parties. It enacts that once a matter is finally decided by a competent court, no party can be permitted to reopen it in a subsequent litigation. In the absence of such a rule there will be no end to litigation and the parties would be put to constant trouble, harassment and expense. Res Judicata is a rule of universal law pervading every well regulated system of jurisprudence and is based upon a practical necessity that there should be an end to litigation and the hardship to the individual if he is vexed twice for the same cause. Thus, this doctrine is a fundamental concept based on public policy and private interest.*

*The legal concept of Res Judicata arose as a method of preventing injustice to the parties of a case supposedly finished as well as to avoid unnecessary waste of resources in the court system.*

**The Complaint case is thus not maintainable. Consequently the prayer of the Complainant for imposing penalty and for other reliefs stand rejected.**

15. Before parting, the Commission has also perused an Application filed by Shri Pedrito Misquitta alias Shri John Peter Mesquitta dated 11/04/2018

(i.e one day after the passing of the order) to withhold the dismissal order and at the outset holds that the Complainant has filed the said application with the sole objective to thwart the order of this Commission. Also there is no such provision under the RTI act 2005 for withholding an order once pronounced and passed by the Commission at the conclusion of the hearing before the party present and as such the application is dismissed as not maintainable.

16. The Commission places on record that aspersions cast by the Complainant and tone and language used in the said application are downright disrespectful and shows that the Complainant has scant regard and respect for the orders passed by this Commission. It seems that the Complainant has made it a habit of making wild allegations on the presiding Commissioner without any truth whenever he finds that the case is going against him.

17. The Commission hears and decides cases which are assigned to the respective chamber purely on merits. If the Complainant has a grudge and wanted transfer of the case, he could have raised the issue in the beginning after receiving the notice and being present for the hearing on 13/12/2017 and not after the order has been pronounced and case disposed.

18. The Commission strongly condemns and takes a serious view of the Complainant using such pressure tactics to have his case transferred. The Commission however lets off the Complainant this time with a stern warning and expects that he shall maintain the dignity, decorum and respect of the Commission.

With these observations all proceedings in the Complaint case are closed.

Pronounced before the parties who are present at the conclusion of the hearing.

Notify the parties concerned. Copies of the Order be given free of cost.

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### **3. Complaint No. 56/SCIC/2013**

Smt. Rubina Beig,  
No.9, 3<sup>rd</sup> floor, Paes  
Avenue Bldg.,  
F.L. Gomes,  
Vasco Da –Gama

..... **Complainant**

**v/s**

1. Public Information Officer,  
Department of Law & Judiciary,  
(Estt) Division,  
Secretariat, Porvorim –Goa.  
Porvorim –Goa.

2. First Appellate Authority,  
Jt. Secretary (Law),  
Secretariat, Porvorim –Goa

..... **Respondents**

### **ORDER**

1. Brief facts of the case are that the Complainant vide an RTI application dated 11/06/2012 sought certain information under section 6(1) on three points from the Respondent PIO. The information in point no 1 is for certified copies of Bio-Data of six advocates who have been appointed as government advocates, in point no 2 all supporting documents submitted by the six advocates and in point no 3 file notings and note of AG recommending the six advocates as government advocates in the High Court.
2. It is seen that the RTI application was addressed to the PIO, O/o of Principal Chief Secretary and the said PIO transferred the RTI application under section 6(3) to the PIO, Under Secretary (law) who vide letter dated 06/07/2012 informed the Complainant that as far as information on points No.1 & 2 are concerned, the respective Advocates have objected that information sought relates to personal information and ought to be rejected and as such PIO denied

the information and whereas information on point No.3 was furnished to the Complainant.

3. Not satisfied with the reply of the PIO, the Complainant preferred a First Appeal on 24/07/2012 and it is the case of the Complainant that the FAA despite having perused the records and having heard the arguments has not passed any order and which is why the Complainant is before the commission in a Complaint case filed on 26/04/2013 and in the prayers at i) has sought that information be furnished correctly free of cost ii) action u/s 18 sub section b,c,e & f is warranted by the commission to set a precedent as not to take law for granted. iii) impose penalty iv) to recommend for disciplinary action against the PIO and FAA and other such reliefs.

4. During the hearing the Complainant Rubina Beig is absent, however she has sent a letter dated 30/08/2016 opting not to be present and requesting the commission to decide the matter on merits as per her submissions and arguments in the Complaint

memo. The Respondent PIO is represented by Adv. K.L. Bhagat who is present along with Shri. Chandrashekhar Naik, Legal Officer. The FAA is absent.

5. It is submitted that the information sought by the Complainant on points 1 & 2 came to be rejected as the respective vide their separate letters have objected as the same relates to asking personal information the disclosure of which as no relation to the public activity or interest and /or which would cause unwanted invasion of privacy and hence was exempted from disclosure Under Section 8 (1)(j) of the RTI Act, 2005. Copies of the correspondence received from the six advocates is furnished before the commission which is taken on record.

6. The Commission has perused the records including the RTI application dated 11/06/2012, the reply of the PIO dated 06/07/2012, copy of first appeal dated 24/07/2012, complaint memo dated 26/04/2013, the application of the Complainant dated 30/08/2016, reply of respondent dated 27/10/2016.

7. The main grievance of the Complainant is that information in points I & 2 of the RTI application have been denied and there is no dispute regarding information on point no 3 which has already been provided.

8.The Complainant had sought information as follows: In Point 1: For certified copies of all the above said advocates Bio-Data who have been appointed on recommendation of Advocate General and in Point 2:All the supporting document submitted by the above name advocate for their appointment of Government Advocates.

9.The complainant has stated that the names of the said six Advocates who were recommended on the Government panel to appear in matters before the Bombay High Court at Goa are as follows: Govt. Advocate (1) Shri Dattaprasad Lawande and Five other Additional Government Advocates namely (2) Prachi P. Sawant (3) Shri. Pankaj Vernekar (4) Shri Shashank Narvekar (5) Shri. Pradosh Dangui and (6) Shri Kaif Noorani.

10. The Commission observes that the Respondent PIO had addressed a letter bearing no. LD/5251/RTI-Act/Estt/Vol.II/845 dated 26/06/2012 Under Section 11 (1) of the RTI Act, 2005 to all the said Advocates stating that Complainant herein Smt. Rubina Beig has requested to furnish a certified copy of their Bio Data and all supporting documents attached to their application on in the appointment of Government Advocates/Additional Government Advocate under RTI Act, 2005 and requested them to make a submission in writing to him whether the information sought by the party should be disclosed.

11. Further it is seen that all six Advocates filed their objection before the Respondent No.1 PIO vide separate letters all dated 28/06/2012 have same subject matter Under Section 11(1) of the RTI Act, 2005.

12. Further all the six advocates have stated in para 2 that they are unable to comment on the said RTI application as the same has not been furnished to them and in para 3 have stated that the information being sought by the Complainant ought to be rejected as the same information which relates to personal information the disclosure of which has no relation to public activity or interest and/or which would cause unwanted invasion and privacy in terms of exemption from disclosure of information and based on these letters the PIO rejected disclosure of information in points 1 &2.

13. The commission at the outset finds that there is no order passed by the First Appellate Authority (FAA). Neither the learned advocate nor the representative for the Respondents could give any satisfactory explanation as to why the FAA failed to discharge the duty that is cast on him as per provisions of the RTI act. It is alleged by the Complainant in the Complaint memo that the FAA despite perusing the records and hearing arguments did not pronounce any order so as to safe guard the malpractice happening under his own control and which appears to be a serious charge.

14. The FAA being a quasi judicial body should have applied his mind and come to a conclusion whether the information sought by the Complainant in the RTI application indeed falls within the ambit of third party information and whether the disclosure can cause invasion of privacy and hence cannot be provided. The Commission notes with serious concern that such a serious lapse on part of the FAA clearly tantamounts to dereliction of duty and cannot be taken lightly more so as the FAA is a senior officer of the rank of Jt Secretary in the Law department.

15. The FAA is hereby called upon by this commission to explain the reason for his failure to discharge his duties which he is legally bound. The FAA is directed to remain present personally before the commission with his reply on, 21<sup>st</sup> December 2016 at 11.30am .

16. The commission finds that seeking information about bio data and supporting documents of candidates appointed as Govt/ Addl Govt. Advocates on the government panel cannot be construed as either confidential or third party information or that which would cause unwanted invasion of privacy and hence exempted from u/s 8 (1)(J) of RTI Act.

17. The public have a right to know the credentials of such persons including their qualifications, experience, age, knowledge of law and standing at the bar more so as such advocates are getting pecuniary benefits and drawing remuneration from the public exchequer for the services rendered by them before the High Court.

18. There was no necessity for the PIO to have sent the letter no. LD/5251/RTI-Act/Estt/Vol.II/845 dated 26/06/2012 and that too without enclosing the referred RTI application to the respective advocates for their say. It was the duty of the PIO to have furnished the information straight away, if the said information was available in the public domain in larger public interest and for maintaining transparency.

19. If the government had not called applications for such appointments or if the respective advocates had neither applied nor submitted any bio-data, then it was the duty of the PIO to have informed the complainant accordingly in his reply to the RTI applicant and which has not been done.

20. In view of the above discussions the Commission directs the PIO to furnish all information as sought in points 1 and 2 of the RTI application to the Complainant by Registered Post within 25 days of the receipt of this order free of cost with compliance report to be furnished to the commission.

21. Before parting the Commission would appreciate if the Chief Secretary/ Law Secretary take a serious note at the manner in which the First Appellate Authority, Jt. Secretary, Law has dealt with the First appeal case. The Commission recommends that the concerned officer be deputed for a training course in RTI.

Copy of this order to be sent to the Chief Secretary and Law Secretary.

**With these directions the Complaint case stands disposed.**

All proceedings in complaint case stand closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.