

ANNUAL REPORT

FOR THE YEAR 2019



THE GOA STATE INFORMATION COMMISSION
7th Floor, Kamat Tower, Patto, Panaji-Goa 403001
Telephone:-0832-2437880 E- mail:- spio-gsic.goa@nic.in

INDEX

Sr. No.	Particulars	Page Nos.
1	Preface	02-03
2	Constitution of Commission & Commissioners	04
3	Powers and functions of State Information Commissioners. Office Premises and staff Organizational structure of the Commission	05-06
4	Activities undertaken by the Commission Number of 2 nd Appeals and Complaints received before the GSIC. Number of 2 nd Appeals and Complaints received before the GSIC. Status of RTI Application and First Appeal in Commission. Cases under Sexual Harassment. Budget for the Financial Year 2019-20 Nodal Department	07
6	Observations & Recommendations of the Commission	08-09
7	Media Centre	10-11
8	Statistical Data	12-17
9	Set of Proforma	18-30
10	Important Judgments Chief Information Commissioner State Information Commissioner –I State Information Commissioner - II	31-37 37-67 67-84

PREFACE

It is with immense pleasure and pride that the Goa State Information Commission (GSIC) presenting the Annual Report pertaining to the calendar year 2019. The same is prepared in pursuance to section 25(1) of RTI Act.

The RTI Act has served to unearth valuable information hitherto unavailable on many occasions thereby achieving greater transparency in the functioning of the public functionaries. It has considerably helped genuine information seekers, who would have otherwise been deprived of their constitutional rights.

The ultimate aim and the intent of the RTI Act is that the public should have access to the information under the control of public functionaries, in order to promote transparency and accountability in the working of every public authorities and also to curtails corruptions, mismanagement etc, if any and to hold Government and their functionaries accountable to such lapses.

Section 4 of RTI Act obligates the public authority to use the latest technologies to discharge their transparency commitments under that. It has now become necessary that top echelons of the public authorities are sensitized about seriously addressing the several aspects of, and discharging their section 4 of RTI Act commitments, including digitization of data and use of other latest technologies, to not only make transparency the hallmark of their functioning, but also to create the congenial atmosphere to the public at large to access the information required or desired through painless and efficient process.

Unless the key requirement of section 4 are not fully met by Public Authorities suo-moto, the objective of the Acts as enshrined in its preamble and in section 4 itself cannot be realized in toto.

During the period covered by this report several steps for facilitating the information seeker and to the PIO were undertaken in association with NGO working in the field of RTI.

The commissioners were also guests/ key speakers for the functions conducted by NGO's in the field of RTI and also were resources person imparting training to the Public Information Officers.

The Commission in exercise of powers U/s 15(4) of RTI Act, 2005 by order dated 15/06/2020 has recommended / directed to secure the necessary infrastructure for hearing of the matter through Video Conferencing, E-filing of the cases and providing links to the parties / Advocates which is still pending.

More than 2000 backlog of cases were pending when this three Commissioners took charge. There was addition on an average of about 300 new cases filed in each year. The

Commission took extensive efforts in clearing the backlog and disposing the matters and presently about _____ cases are pending.

Commission has taken maximum care and efforts to make this Annual Report useful and informative and has made several observations and recommendations thereon under section 25 of RTI Act 2005 which are at page 6 and at page 7 of this Annual Report.

Secretary Shri. Vinesh Arlenkar and staff of the Commission Mrs. Sumeeta Amonkar(DEO) has taken active interest in complying this report and for easy reference, this report is arranged in chapters with related sub heads.

(Ms. Pratima Vernekar)
State Information Commissioner,
GSIC, Panaji Goa.

Introduction

2.1 Constitution of Commission




The RTI Act received the assent of His Excellency the President of India on 15th June 2005. In order to ensure effective implementation of RTI Act 2005 (herein after referred to as “Act” or the “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, of even date constituted the commission to exercise the powers conferred on, and to perform the function assigned to it under the said Act.

In exercise of powers conferred by section 27 read with sub section (6) of section 16 of RTI Act 2005, (central act no. 22 (2005)), the Government of Goa also notified GSIC appeal procedure rules by Notification No. DI/INF/RTI Act/2005/4531 and also Goa Right to Information (regulation of fees and cost) rules 2006.

2.2 Commissioners

The then Her Excellency, Governor of Goa appointed **Shri Prashant S.P. Tendolkar** as Goa State Chief Information Commissioner, and **Smt. Pratima Vernekar** and **Shri. Juino De Souza** appointed as State Information Commissioners, and the same was notified in the Official Gazette, Government of Goa, Extraordinary, Series II, No.39, dated 24th December 2015 and were administer on oath of office and secrecy 01/01/2016 by her Excellency to them.

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

STATE CHIEF INFORMATION COMMISSIONER	STATE INFORMATION COMMISSIONERS
1. Shri. Prashant S.P. Tendolkar, (01/01/2016 to 11/02/2020)	1.Smt. Pratima K. Vernekar (01/01/2016 till date)
	
Page	2. Shri. Juino De Souza (01/01/2016 to 03/07/2020)
	

3.1 Powers and functions of State Information Commissioners

The RTI Act 2005, through its section-18, 19 and 20, prescribed the powers and functions of the commissioners in dealing with appeals, complaints and penalties respectively. The State Information Commissionerate functions as statutory body – to hear and adjudicate the complaint and appeal of the citizens and to monitor and ensure the implementation of Act at various levels in accordance with the provision of it.

3.2 Office premises and Officers

The Commission has no office premises of its own. Presently it functions from the premises allotted it by the state Government. The present official address of Commission is as under:

3.3 Office Address:

“Kamat Tower”,
7th Floor, Patto Plaza,
Panaji Goa. 403001.

3.4 Staff:

The office is/was managed by the following officers:

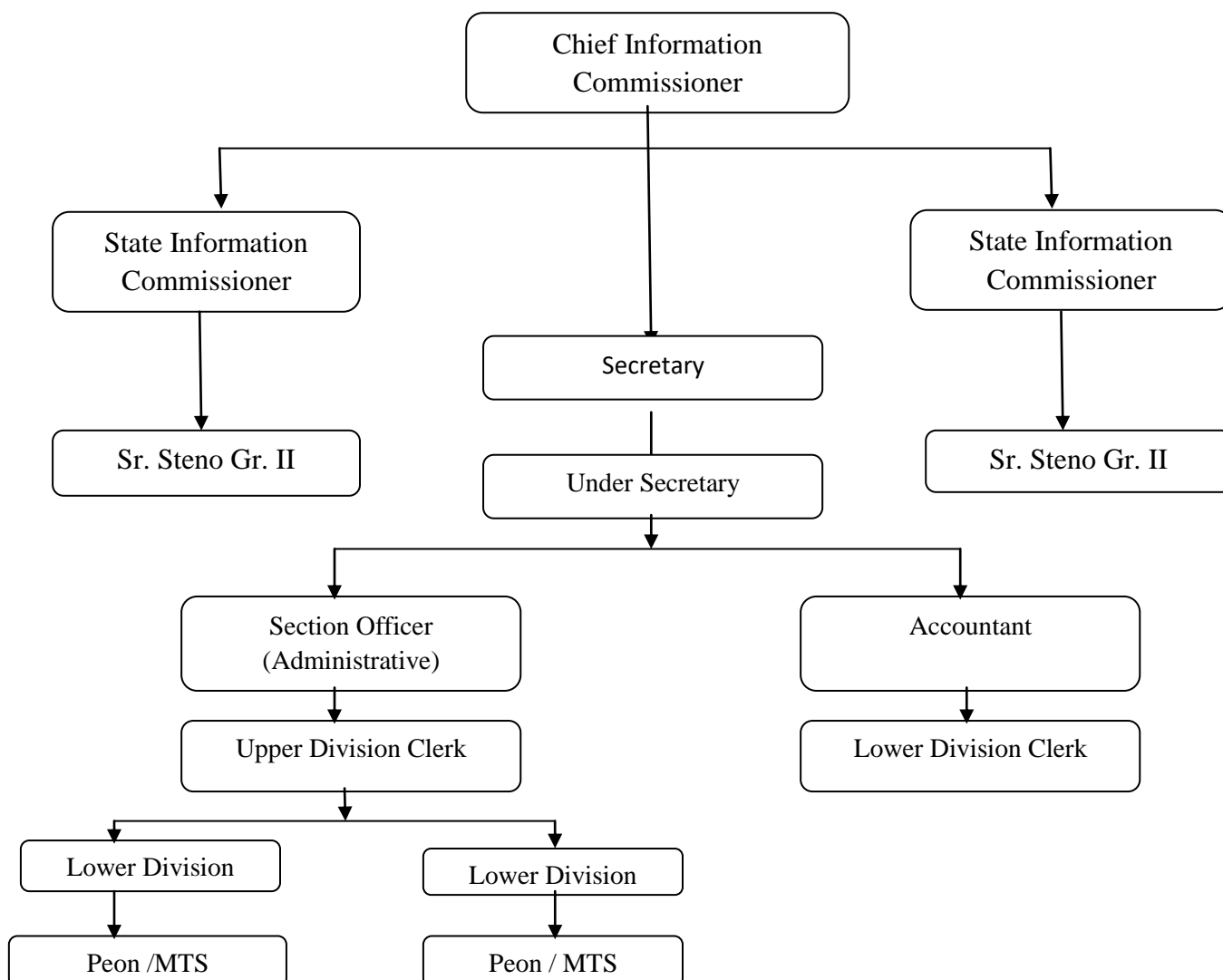
SECRETARY	
1.Smt. Irene V. Sequeira, (27/02/2014 to 25/08/2020)	
2. Shri. Vinesh Arlenkar (25/08/2020 till dated)	

Sr.No.	UNDER SECRETARY CUM REGISTRAR
1	Shri. Sudhir Kerkar,
2	Smt. Roshell Fernandes
3	Shri. Ulhaas Kadam
4	Shri. Bala Korgaonkar (at present)

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

Categories of Posts.	Sanctioned strength	No. of Staff actually posted	Number of Posts vacant.
Section Officer	01	-	01
Accountant	01	01	-
Stenographer Grade I	03	02	01
Junior Steno	02	-	02
UDC	01	-	01
LDC	03	02	01
Peon	02	-	02
Driver	03	01	02
TOTAL	16	06	10

3.5 Organizational Structure of the Commission



4.1. Activities undertaken by the Commission

Besides undertaking duties assigned by the RTI ACT, 2005, the Chief Information Commissioner, Shri. Prashant Tendolkar and State Information Commissioners, Smt. Pratima Vernekar, attended annual convention and conference hosted by Central Information Commission New Delhi to update themselves with the new trends in RTI.

Shri. Juino De Souza, State Information Commissioner conducted RTI training program jointly with GIPARD for Principals of HSS and ADEI's of South Goa on 31/10/2019 and 01/11/2019 respectively.

4.2 Number of 2nd Appeals and Complaints received before the GSIC

During the calendar year 2019 the Commission received 57 numbers of Complaints and 353 numbers of Appeals.

Total of 317 numbers of Appeal, 62 numbers of Complaints, 38 numbers of Penalty no 5 numbers of Miscellaneous and 2 numbers of Reviews were disposed of till date.

4.3 Status of RTI Application and First Appeal in Commission

Goa State Information Commission received a total of 26 RTI applications. During the reporting calendar year 2019-2020. Total of 14 First appeals were filed before First Appellate Authority of this Commission under section 19 of RTI Act 2005 till date.

4.4 Cases under Sexual Harassment

No cases has been filed in Goa State Information Commission under Sexual Harassment of Women at work place (Prevention, Prohibition & Redressal) Act 2013.

4.5 Budget for Financial Year 2019-20

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(Rs. In Lakhs)				
Funds Allotted	Office Expenditure	Other Expenditure	Salaries	Total Expenditure for the financial year 2019-2020
231.78	20.33	20.34	167.64	208.30

4.6 Nodal Department

The Information & Publicity Department, Government of Goa is the nodal department for Goa State Information Commission. All the matters, administrative and financial are taken up and routed through this nodal department.

5.1. Observation of the Commission and & RECOMMENDATIONS U/s 25 of RTI Act,2005

In the course of hearing of the cases and during day to day functioning of the commission lapses in several practices and procedures were noticed. Hence the observations of the commission and the recommendations are given herein under as required u/s 25 of the RTI Act.

a. Virtual Hearings

The information seekers / appellant who are from different parts of Goa files their 2nd appeals and complaints before this commission. For the hearing, the appellant as well respondent PIOs has to personally appear before this commission. The parties which are not local have to travel quite a long distance for attending the hearing. Due to this, lots of hardship may have to be suffered by the information seekers and PIO's. And for this immediate steps needs to be taken for virtual Hearings. Besides, in pandemic situations like Covid -19, the virtual hearing is a must in larger public interest to minimize the risk of transmission. It is pertinent to note that various judicial authorities like High court and Civil courts in the state of Goa are conducting the hearing by video conferencing.

It is therefore earnestly requested that this Commission should be equipped with virtual hearing system like video conferencing facilities and the officer/ staff concerned should be provided training how to operate and make use of it whenever the circumstances demand .

b. Mode of services of notices, Orders etc.

Rule 6 of the GSIC (appeal procedure) rules, 2006, specifies the mode of service of notice. The said rules were drafted soon after the formation of commission in 2006. The present trend is to have is to have paperless mode of transmission. People are now using internet and other facilities like SMS, WhatsApp, twitter, instagram etc to transmit and receive the messages. Hence now all correspondence can be made through electronic media or other equivalent facilities. Hence it needs to amend Rule 6 of GSIC (appeal procedure) rules, 2006 appropriately.

c. Regarding Public Authorities: Information Management System

It is been observed by this Commission that now there is trend of PIO reporting records of information seeked is either missing or lost and the same is on rise. It is also observed that the records are not maintained and preserved properly and appropriately by Public Authorities for minimum stipulated years as prescribed by the relevant Act governing their functioning. Digitization of records is also not been undertaken by it. A comprehensive Management Information System should be developed by each Public Authorities for

storage and retrieval of data. The computerization of records and use of IT resources to ensure transparency in functioning of different departments should be accorded high priority and there should be adequate budgetary provision for undertaking this work.

d. Compliance of Section 4

It is also observed that most of Public Authorities are not strictly complying the provision of Section 4(1)(b) of the Act by providing active disclosure of the activity undertaken by them. If more and more Suo-moto disclosures are made by Public Authorities, undoubtedly there would be less and less people who would resort to remedy provided by the Act for seeking desired information. Therefore, the Commission recommends that Chief Secretary of state should direct all Public Authorities of the state to comply with provision of 4(1)(b) RTI Act more diligently.

e. RTI Cell

The officers have been assigned the duty of the PIO's in addition to their other regular assignments. It is noticed that in such cases, the concerned officers are not able to do justice neither to their regular assignments nor to their function as PIOs and as a they are under constant fear facing penalty proceedings during hearing which may affects their prospects for promotion or in curtailment in payment of their regular remuneration. Therefore Commission recommends that the RTI Cell be formed in each Public Authorities/ Departments.

6.1 Media Centre



SIC presenting award during international RTI day celebration



CIC and SIC at Annual Conventional at New Delhi.



SCIC with Union Home Minister Shri. Amit Shah along with CIC & SCIC's of other states during 14th Annual Convention at Delhi.



SIC presenting his work report to His Excellency the Governor of Goa.



SIC as Chief Guest at Founders Day Function of People's High School



Bahubhij Celebration by the staff of Commission.



Commissioners along with the staff



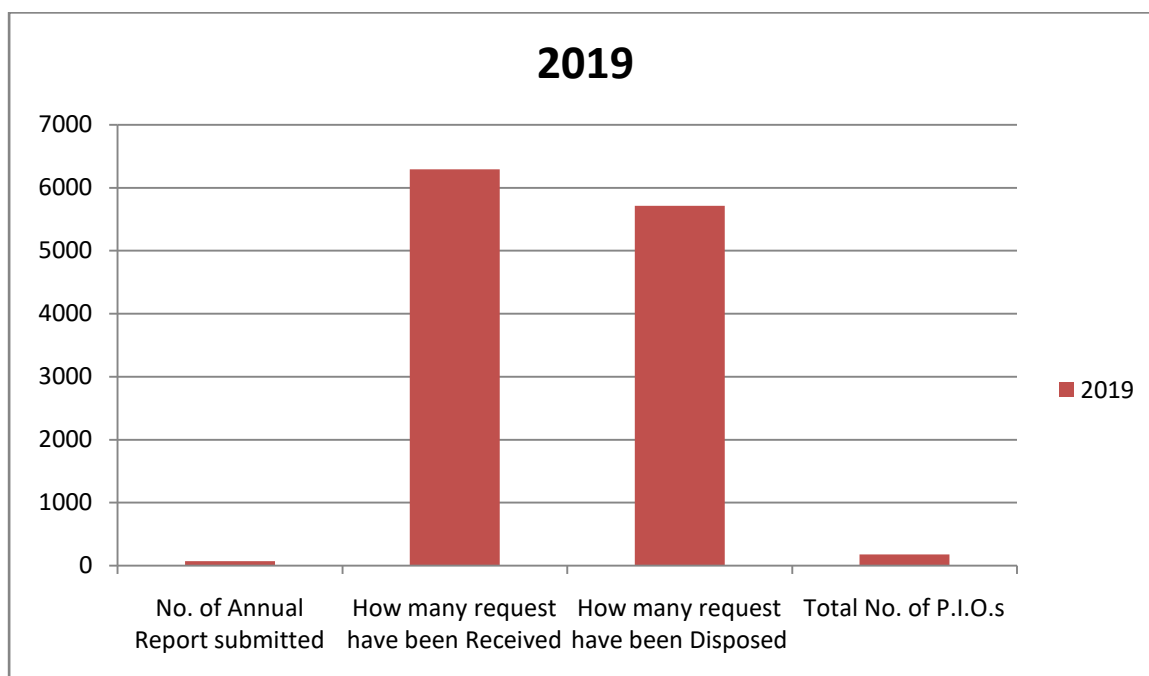
Green day Navratri celebration of staff
Of GSIC

7.1 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		2019
1.	No. of Annual Report submitted	72
2.	How many request have been Received	6291
3.	How many request have been Disposed	5713
4.	Total No. of P.I.O.s	180



7.2. 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.

		2019
1.	No. of Public Authorities which received more than 1000 RTI Applications	1
2.	No. of Public Authorities which received more than 500-1000 RTI Applications	3
3.	No. of Public Authorities which received more than 100-500 RTI Applications	7
4.	No. of Public Authorities which received more than 50-100 RTI Applications	7
5.	No. of Public Authorities which received more than 25-50	9

	RTI Applications	
6.	No. of Public Authorities which received less than 25 RTI Applications	44+1

Highest No. of RTI Application received		
2019		
1	Public Works Department	1848
2	Directorate of Settlement & Land Records	792
3	Forest Department	589
4	Department of Co-operation	589
5	Goa State Pollution Control Board	258

7.3 TABLE SHOWING AUTHORITIES WHICH RECEIVED MAXIMUM REQUESTS.

Sr. No.	Name of Department	No. of Department	No. of Requests
1	No. of Public Authorities which received more than 1000 RTI Applications	1	
1	Public Works Department		1848
2	No. of Public Authorities which received more than 500-1000 RTI Applications	3	
1	Directorate of Settlement and Land Records		792
2	Forest Department		589
3	Department of Co-operation		589
3	No. of Public Authorities which received more than 100-500 RTI Applications	7	
1	Goa State Pollution Control Board		258
2	Water Resources Department		247
3	Directorate of Food & Drugs Administration		161
4	Captain of Ports		112
5	Directorate of Agriculture		189
6	Directorate of Accounts, Panaji		123
7	Directorate of Vigilance		237
4	No. of Public Authorities which received more than 50-100 RTI Applications	7	
1	Goa State Infrastructure Development Corporation Ltd.		94

2	Directorate of Technical Education		51
3	Directorate of Sports & Youth Affairs		81
4	Goa Public Service Commission		66
5	Directorate of Fire and Emergency Services		92
6	Goa Tourism Development Corporation Ltd.		61
7	Commercial Tax Department		84
5	No.of Public Authorities which received more than 25-50 RTI Applications	9	
1	Directorate of Art & Culture		32
2	District & Sessions Court, North Goa, Panaji		37
3	Goa Board of Secondary & Higher Secondary Education, Porvorim Goa		40
4	Directorate of Tribal Welfare		31
5	Executive Engineer, WD.XXIV, Bicholim Goa		44
6	Department of Animal Husbandry & Veterinary Services		42
7	Goa Handicrafts, Rural and Small Scale Industries Development Corporation Ltd.		27
8	Directorate of Industries, Trade and Commerce		38
9	Government College Khandola, Marcel Goa		27
6	No.of Public Authorities which received less than 25 RTI Applications	44+1	

7.4 AUHORITIES HAVING SINGLE PIO

The table of office having single PIO (Compiled as per report received from Public Authority during the reporting year 2019)			
Sr. No.	Name of the Department	No. of requests received by PIO	No. of cases disposed
1	Department of Legal Metrology	11	9
2	Govt. College of Arts, Science & Commerce, Sanquelim	1	1
3	SPES's Goa Multi-faculty College	8	8
4	Vidya Prabodhini College of Commerce, Education, Computer & Management.	2	2

5	GVM's Dr. Dada Vaidya College of Education, Ponda Goa	2	2
6	Goa Forest Development Corporation Ltd, Panaji Goa	5	5
7	Directorate of Planning, Statistics & Evaluation	7	7
8	Goa State Social Welfare Board	0	0
9	Goa Khadi & Village Industries Board	2	2
10	Govt. College of Commerce and Economics, Borda, Margao Goa	6	6
11	Goa State Pollution Control Board	258	253
12	District & Sessions Court, North Goa, Panaji	37	23
13	District & Sessions Court, South Goa, Margao	19	18
14	D.C.T's Dhempe College of Arts & Science	5	5
15	Goa Energy Development Agency, Goa	8	8
16	Parvatibai Chowgule College of Arts & Science	11	11
17	Institute of Public Assistance, Mala Panaji Goa	9	9
18	Institute of Nursing Education, Bambolim Goa	16	16
19	Narayan Zantye College of Commerce, Bicholim	2	2
20	District Rural Development Agency, North Goa	24	24
21	Goa Board of Secondary & Higher Secondary Education, Porvorim Goa	40	36
22	District Rural Development Agency, South Goa	10	10
23	VVM's Shree Damodar College of Commerce & Economics, Margao	3	2
24	Directorate of Tribal Welfare	31	31
25	Directorate of Food & Drugs Administration	161	161
26	Dnyanprassarak Mandal's College and Research Centre, Assagao Goa	5	5
27	Goa State Infrastructure Development Corporation Ltd.	94	89
28	Directorate of Technical Education	51	51
29	Directorate of Sports & Youth Affairs	81	81
30	Captain of Ports	112	97
31	V.M. Salgaocar College of Law, Miramar	9	9
32	Directorate of Accounts, Panaji	123	123

33	O/o of Administrative Tribunal, Panaji	16	16
34	Govind Ramnath Kare College of Law	3	3
35	Govt. Polytechnic, Althino	15	14
36	Fr. Agnel College of Arts & Commerce, Pillar	3	3
37	St. Xavier College, Mapusa	5	3
38	Goa College of Music	3	3
39	Goa College of Architecture	2	1
40	Directorate of Accounts, South Barnch	13	13
41	Executive Engineer, WD.XXIV, Bicholim Goa	44	44
42	Department of Animal Husbandry & Veterinary Services	42	42
43	Goa Public Service Commission	66	61
44	Nirmala Institute of Education	2	2
45	Goa College of Pharmacy	3	3
46	Goa College of Engineering, Farmagudi	6	5
47	Govt. Polytechnic, Curchorem	2	2
48	Sant Sohirobanath Ambiye Govt. College of Arts & Commerce, Pernem	1	1
49	DCT's S.S. Dempo College of Commerce & Economics	7	7
50	Goa Tourism Development Corporation Ltd.	61	16
51	Directorate of Prosecution	18	13
52	G.G.Poy Raiturcar College of Commerce and Economics	3	3
53	Goa State AIDS Control Society	5	5
54	Rosary College of Commerce & Arts, Navelim	2	2
55	Goa Handicrafts, Rural and Small Scale Industries Development Corporation Ltd.	27	25
56	Goa Rehabilitation Board	2	2
57	Goa College of Home Science	1	1
58	Carmel College of Arts, Science and Commerce for Women	3	3
59	Directorate of Official Language	7	7
60	Government College Khandola, Marcel Goa	27	2
Total			

7.5 TABLE SHOWING AUTHORITIES WITH MORE PIOs.

Showing sub-set of Department having more No. of PIOs- 2019			
Sr. No.	Name of the Public Authority	No. of requests received by PIO	No. of cases disposal
1	2	3	4
1	Directorate of Settlement & Land Records. Total 8 PIOS	792	792
2	Forest Department. Total 8 PIOS	589	491
3	Directorate of Art & Culture. Total 2 PIOS	32	7
4	Water Resources Department. Total 21 PIOS	247	247
5	Directorate of Agriculture. Total 12 PIOS	189	189
6	Rosary College of Commerce & Arts, Navelim. Total 2 PIOS	12	12
7	Public Works Department. Total 36 PIOS	1848	1600
8	Directorate of Fire and Emergency Services. Total 4 PIO's	92	89
9	Department of Co-operation Total 12 PIO's	589	575
10	Commercial Tax Department Total 9 PIO's	84	68
11	Directorate of Vigilance Total 3 PIO's	237	197
12	Directorate of Industries, Trade and Commerce	38	38
Total 12 Departments			

8. 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 30th March of every year by concerned Public Authority as Annual Returns.

- | | |
|-----------------------|---|
| a. Proforma No. I:- | The details of RTI Applications received, disposed off related fees collected to be signed by PIO of the concerned Department / Officers. |
| b. Proforma No. IA:- | The details of RTI Appeal preferred to FAA / CIC and outcome of 1 st and 2 nd Appeal. Proforma No. 1 and 1A to be signed PIO. |
| c. Proforma No. II:- | The appeals filed and disposed off by FAA under RTI Act. FAA to maintain Register for column No. 7 and its details. |
| d. Proforma No. IIA:- | Number of Penalty imposed and recovered from PIO. A Proforma II and Proforma II A to be signed by FAA. |

- e. Proforma 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.
- f. Proforma 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.
- g. Proforma 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.
- h. Proforma 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.
- i. Proforma 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).
- j. Proforma No VI:- The names of the Public Authorities which have maintained all records duly catalogued and index under Sec 4(1)(a).
- k. Proforma 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								
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.)
1	2	3	4	5	6	7	8	9

Signed by PIO

8.2

PROFORMA PRESCRIBED FOR SUBMISSION TO SCIC										
PROFPRMA -1 A										
Statement showing the details of RTI appeals preferred to PIO/FAA outcome of 1 st 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 nd appeal filed during the year	No. of 2 nd appeal direction received	No. of 2 nd appeal complied

3.2

Signed by PIO

8.3

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

Signed by FAA

Note:- Register to be maintained for

col.No. 7

8.4

PROFORMA - II A					
Statement showing the penalty received charged and recovered from PIO					
Name of the Department	Name of the Public Authority	Name & Designation of Head of Department	No. of Penalty order where penalty received¹ from GSIC during the calendar year	No. of Penalty order where penalty is charged	No. of Penalty orders received from GSIC where penalty is recovered from PIO
1	2	3	4	5	6

Signed by FAA

8.5

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

Director
(Public Authority)

8.6

PROFORMA –III-A

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:-

Name of the Department	Name of Secretary to Govt. Department	Web address of Website	u/s 4, URL for main RTI page	Approx, No. of pages for RTI information	Date of Last updation of the information published u/s 4	Reasons for non compilation or no web pages for RTI
1	2	3	4	5	6	7

Secretary

8.7

PROFORMA -IV				
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 :-				
Sr.No.	Designation of PIOs	Name of PIOs present	Gazette notification if PIO name has changed during calendar year under report	Has the PIO filed last annual returns to SCIC in time
1	2	3	4	5

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

8.8

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

To be signed by Chief Secretary

8.9

PROFORMA –V			
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:			
Sr. No.	Designation of the First Appellate Authority	Name of the First Appellate Authority	If vacant on 01/01/2018
1	2	3	4

To be signed by Director (PA)

8.10

PROFORMA –VI						
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:-						
Sr. No.	Designation of PIO	Has finished indexing (approx. 80% or more)	PIO file	Has inspected during last 3 years	FAA	If yes give month/year
1	2	3	4	5		

To be signed by Director

8.11

PROFORMA –VII

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**

9. IMPORTANT JUDGEMENTS by Commissioners:

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.

9.1 The following are the important Judgement passed by Chief Information Commissioner, **Shri. Prashant S.P. Tendolkar.**

Appeal No.130/2019/SCIC

Shri Uday A. C. Priolkar,
R/o Hno. C5/55,
Mala Panaji Goa.

..... Appellant

V/s

- 1) The Public Information Officer/
The Dy. Superintendent of Police,
(Anti Narcotic Cell),
Panaji- Goa.
 - 2) The First Appellate Authority/
Dy. Superintendent of Police,
(Anti Narcotic Cell),
Panaji- Goa.
- Respondents

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 21/01/2019 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under eight points therein. Out of the same the information at point (8) was transferred to PIO, SDPO, Mapusa u/s 6(3) and according to appellant information thereon is received.
- b) In respect of the remaining seven points, the PIO herein replied on 29/01/2019, rejecting the requested information on the ground that the respondent Authority is exempted from disclosure of information u/s 24(4) of the act.
- c) Being aggrieved by said response the appellant filed first appeal to First Appellate Authority (FAA). FAA by order, dated 30/03/2019 dismissed the said appeal interalia holding that the Anti Narcotics Cell of Goa Police is exempted from disclosing information u/s 24(4) of the act.

- d) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.
- e) Notices were issued to the parties, pursuant to which they appeared. The PIO and FAA filed their replies to the appeal on 26/06/2019.
- f) The appellant appeared in person and the PIO was represented by Shri Sitakant Nayak, P.I. Submissions of the parties were heard.
- g) It is the contention of appellant that though the act grants exemption to certain authorities, such exemption does not extend to the cases involving corruption and Human Rights violation. According to him the information sought is related to corruption and hence such exemption is not applicable with respect to the application filed by him.

In support of his contention the appellant has relied upon the judgment passed by Hon'ble Supreme Court in the case of *Yashwant Sinha & others V/s Central Bureau of Investigation (Review petition Criminal) No.46 of 2019 in Writ Petition (Criminal) No.298 of 2018 as also in the case of Chief Information Commissioner and another V/s State of Manipur and another 2012 (2) Goa L.R. 105 (SC)* and submitted that the same are applicable in the present case being identical.

- h) Shri Sitakant Nayak, PI representing PIO submitted that as per notification dated 30/01/2009, of the Department of Information and Publicity, Anti Narcotic Cell of Goa Police Department, which is the respondent authority herein, has been exempted from disclosing the information for the purpose of sub section (4) of Section (24) of the Act and hence information cannot be given. He has filed on record copy of the said notification. According to him the anti Narcotic Cell books the cases under NDPS Act on the bases of prior intimation which includes secret strategies and incase information is disclosed, there is a threat to the security.

It is his further contention that on his same plea the FAA after issuing notice to the appellant and hearing him, dismissed the first appeal.

2) FINDINGS

- a) Perused the records and considered the submissions of the parties. The sole point to be decided herein is whether the information as sought is exempted from disclosure u/s 24(4) of the act read with notification dated 30/01/2009 issued by Directorate of Information & Publicity:
- b) Section 24(4) of the Act reads:

24. Act not to apply to certain organizations.(1) -----

(2)-----

(3) -----

(4) Nothing contained in this Act shall apply to such intelligence and security organization being organizations established by the State

Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

5)-----

- c) Careful analysis of the above provision would reveal that though the intelligence, Security organization or notified authorities are exempted from the applicability of the act, such exemption is not extended to disclosure of information pertaining to allegations of corruption and human rights violation. In the case of *Chief Information Commissioner and another v/s state of Manipur and another (Supra)* as relied upon by the appellant, the Hon'ble Apex Court while dealing with the extent of notification u/s 24(4) issued by State Government, exempting the concerned organization from the purview of the Act, has held firstly that such exemptions cannot have retrospective effect and Secondly that the exemptions cannot apply to information pertaining to allegations of corruption and human right violation.
- d) A similar view is taken by the Division bench of High Court of Madras in the case of ***The Superintendent of Police Central range office of Directorate of Vigilance and anti corruption Chennai-600028 V/s R. Karthikeyan and others (W.P.Nos.23507 and 23508 of 2009 and M.P. Nos 1 and 1 of 2009)***. It is held therein that exemption as contained in section 24(4) of the act does not extend to information relating to allegation of corruption. In para (14) of the said judgment it observed:

“14. Therefore, notwithstanding the exemption obtained by the petitioner organisation, any information relating to the allegations of corruption cannot be excluded from the purview of public access. The information sought for by the first respondent are wholly statistical information regarding the number of cases filed, their success rate and the post conviction or post trial action taken against such officers. These information are vital in a transparency Government as public are entitled to know the officers who are facing charge of corruption as well as conviction or acquittal obtained by them as well as the result of departmental action initiated by the Government. Perhaps, consequent to proviso to Section 24(4), in paragraph 11 the division bench has specifically referred to the proviso and held that the first proviso will take care of apprehension expressed by the petitioner in that case. The section cannot be used to exclude the information of allegation of corruption.” (emphasis supplied).

- e) Aforesaid judgment in the case of *R. Karthikeyan (supra)* is also followed by High Court of Madras in the subsequent case of *The Superintendent of Police Central range, v/s M. Kannappan and another (W.P.805 of 2012)*.
- f) Considering the ratio laid down in the cases of State of Manipur (Supra) and those of A. Katikeyan and M. Kannapan (Supra) it can be gathered that though section 24(4) of the act grants exemption to the respondent Authority, such exemption is not in the nature of immunity to the authority itself from applicability of the act. The exemption is only in respect of information, other than relating to corruption and human rights violation. In other words, notwithstanding the exemption, information relating to corruption and violation of human rights as held by such authorities is liable for disclosure.
- g) In context of the present case, it is now necessary to find out the nature of information sought herein and whether it pertains to corruption and/or human rights violation for bringing the same beyond the shield of immunity.
- h) By the appellant's application u/s 6(1) of the act, he has sought information on following points:

- 1) *Cases of NDPS have been registered from the year 2010 till 2019 and who are their investigating officers.*
- 2) *The panchanama copies of NPDS cases from the 2010 till 2019.*
- 3) *Amount or reward has been received by the investigating officer for conducting NDPS cases and kindly provide the list of officers in which matters they have received any reward for conducting any investigation.*
- 4) *Drug detection kits have been brought, purchased and used by this office from the year 2010 till 2019.*
- 5) *Names of the drug detection kits and when the same has been bought and when the same expires which are in possession of the ANCPS.*
- 6) *Drug detection kit has been serviced and provide the details of the same.*
- 7) *Amount have been paid or reimbursed to the witnesses for cases of NDPS have been registered from the year 2010 till 2019.*
- 8) *Copies of the FIR registered at Mapusa Police station for the date January 2018 to November 2018.*

Out of the above, the information to point (8) is furnished and hence does not require any further consideration herein.

- i) Regarding information sought at **points (1) and (3)** it can be seen that the first part of such information refers only to the statistical details as held by the department. However the disclosure of second part of said points (1) and (3) which seeks the names of investigation officers and the list of officers who have received awards for conducting investigation, to my mind may involve the aspect of safety and security.

- j) Coming to **point (2)** of the application, which are copies of panchanama relates to the investigation part of the respondent Authority and would require maintenance of secrecy. The same does not relate to any corruption but to investigation.
- k) Coming to the information sought at **points (4),(5) and (7)** is purely in the form of calling of the statistics or data. Such information relates to corruption. Such information if disclosed cannot not be held to lead to any security threat. On the contrary the said statistics relates to the budgetary resources of respondent authority. Which are required to be disclosed for achieving transparency.
- l) The nature of information sought at **point (6)** is vague. From its wording one cannot know as to what is the actual information required i.e. whether it is the details of service or any other details.
- m) In yet another case before the High court of Calcutta, in the *Writ Petition no.121 of 2009,Basudeb Batabyal V/S Central Information Commission and others and in Writ Petition no.310 of 2009 ,The commissioner of Customs(Port) V/S The information Commissioner, Central Information Commission and others* disposed by a common order, by upholding the order of the commission directing disclosure of the details regarding compensation and rewards court has observed:

“ The Central Information Commission was of the view that there was no security risk involved in disclosing the information sought nor would it have compromised the petitioner in WP No.121 of 2009. The Commission held that barring disclosure of information relating to the compensation or reward for outstanding work received by an officer serving a public authority would amount to negating the effect of the said Act of 2005. The Commission opined that since compensation and reward related information concerned the budgetary resources of public authorities, they should be liable for disclosure. The appeal was disposed of by holding that there was no ground to refuse to furnish the requested information. The Commission did not distinguish the two requests made by the petitioner: the first being the quantum of reward and the second being the furnishing of the corresponding files/ case numbers. As to the quantum of reward, the reasoning contained in the Commission’s order would justify the disclosure thereof. However, the files and case numbers relating to the work of a member of the Special Investigation Branch of the Customs authorities could not have been directed to be released following a request under the Right to Information Act, inter alia, by virtue of section 24 and the second to the Act and the provisions of section 8(1)(g) and 8(1)(j) thereof.

.....

W.P. No. 121 of 2009 and W.P. No. 310 of 2009 are disposed of by modifying the order of the Central Information Commission passed on December 31, 2008 and by directing the Customs department and the petitioner in W.P. No. 310 of 2009 to

only furnish to the second respondent the information relating to the quantum of reward given to the petitioner in W.P. No. 121 of 2009 during the period that the petitioner in W.P. No. 121 of 2009 was posted in the Special Investigation Branch of Calcutta Customs.” (emphasis supplied)

- n) Considering the nature of information sought and as discussed at paras 2(i),(j),(k), and (l) above, the information sought at points (4), (5) (7) and first part of points (1) and (3) of appellant's application u/s 6(1) does relate to corruption and hence are subject to public scrutiny. The information to parts of said points is required to be furnished.

The information at point (2) and second part of point (1) and (3) being related to the investigation of cases and if disclosed, may result in invasion on security and safety.

The request for information at point (6) being vague cannot be considered unless clarified.

- o) In the back drop of the above facts, and the law and considering the extent of exemption granted to the respondent authority under section 24(4) of the act, as laid down by the Hon'ble Supreme Court and High Court of Madras and the High Court of Calcutta, as discussed above, I find that the information sought at points (4), (5) (7) and first part of points (1) and (3) of appellant's application, dated 21/1/2019 is required to be furnished. However the information to points (2) parts of points (1) and (3) and that at point (6) is not liable to be furnished. I therefore proceed to dispose the present appeal with the following:

O R D E R

The appeal is partly allowed. The order, dated 30/03/2019 passed First Appellate Authority in 1st appeal No.1 of 2019 is set aside. The PIO is directed to furnish to the appellant, within **FIFTEEN DAYS** from the date of receipt of this order by it, the following information, with reference to his application dated 21/01/2019 viz.

- 1) Number of Cases of NDPS have been registered from the year 2010 till date of application.**
- 2) Amount or reward received by the investigating officer for conducting NDPS cases.**
- 3) Number of Drug detection kits purchased and used from the year 2010 till the date of application.**
- 4) Names of the drug detection kits in possession of the ANCPS, date of its purchase and date of its expiry.**
- 5) Amount paid or reimbursed to the witnesses for cases of NDPS registered from the year 2010 till 2019.**

Considering the facts and circumstances of the case, I find no grounds to invoke the rights of this Commission u/s 20(1) and/or 20(2) or u/s 19(8) (b) of the act and hence said prayers stands rejected.

Order be communicated to the parties alongwith copy of this order.

Proceeding closed.

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

Appeal No. 246/2019/SIC-I

Shri Omkar Ramchandra Naik,
H.No. 78, Near Rani Construction,
Khadpabandha, Ponda-Gao.

.....Appellant

V/s

- 1) First Appellate Authority,
Electricity Department,
Vidyut Bhavan, Panaji-Goa
- 2) The Public Information Officer,
Dy. Director (Admin),
O/o Chief Electrical Engineer,
Electricity Department,
Vidyut Bhavan, Panaji-Goa.

.....Respondents

CORAM:

Ms. Pratima K. Vernekar, State Information Commissioner.

ORDER

1. The second appeal came to be filed by the Appellant Shri Omkar Naik on 14/8/2019 against the Respondent no. 1 First Appellate Authority (FAA) of the Electricity Department and against Respondent No. 2 Public Information Officer (PIO) of the office of Chief Electrical Engineer, Electricity Department, Panjim-Goa under sub section (3) of section 19 of RTI Act, 2005.
2. The brief facts leading to the second appeal as put forth by the Appellant are as under;

- a) The Appellant vide his application dated 22/4/2019 had sought for certified copies of all the certificates relied upon by the candidates selected and appointed for the post of Junior Engineer in the Electricity Department in the month of January 2019 and also sought for the names of the candidates selected under reserve category. The Appellant had sought the said information in exercise of his right u/s 6(1) of RTI Act, 2005.
- b) The Appellant had sought for the information pertaining to Jr. Engineers namely Mr. Dhavalbharti M.Goswami, Mr. Avinash M.Chalwadi, Mr. Mahesh B.Gowda, Mr. Avinash R. Kochrekar, Mr. Hrishikesh B. Adel, Mr. Fondu N. Bhaip, Ms.Tanvi R. Lingudkar, Mr. Laximan H. Parwar, Mr. Ravindra R. Araganji and Mr. Akshay D. Palni.
- c) The said application was responded by Respondent No. 2 PIO on 22/5/2019 in terms of section 7(1) of RTI Act, wherein the information at point no. 1 (c) i.e names of candidates selected under reserve category were provided to the Appellant and information at point 1 (a) and at point 1(b) i.e certificates/documents relied upon by the above names candidates/Engineers were rejected in terms of section 8(1)(j) of RTI Act.
- d) Being not satisfied with said response of Respondent no. 2 PIO, the Appellant approached the Respondent No.1, Chief Electrical Engineer of Electricity Department, Panaji on 6/6/2019 being First Appellate Authority by way of first appeal u/s 19(1) of RTI Act, 2005.
- e) It is the contention of the Appellant that Respondent No. 1 the First Appellate Authority after hearing the parties passed an order on 3/7/2019 by upholding the say of PIO and coming to the findings that *“the appellant was informed that the ASPIO Dy. Director (Admn) Panajim has furnished all the information as per the application”*.
- f) In this background, the Appellant being aggrieved by the action of both the Respondents and as the Appellant did not receive complete information as sought by him, he approached this commission by way of second appeal on 14/8/2019 as contemplated u/s 19(3) of RTI Act, 2005 on the grounds raised in the memo of appeal with the prayer for direction for furnishing him the information as sought by him, for compensation and for invoking penal provisions.

3. Matter was listed on board and was taken up for hearing. In pursuant to the notices of this commission, Appellant was present in person along his representative Shri Swapnesh Sherlekar. Respondent No. 1 First Appellate

Authority was represented by Mrs. Deepika Sawaikar during initial hearing . Respondent No. 2 PIO Shri Kuldip Arolkar appeared alongwith Shri Kashinath Shetye.

4. Reply filed by Respondent No. 1 First Appellate Authority on 20/9/2019 alongwith the enclosures and by Respondent No.2 PIO on 20/9/2019 and on 20/11/2019. Copy of the same was furnished to the Appellant.
5. Since the information were pertaining to third party i.e Jr. Engineers of Electricity Department listed as serial No. 1 to 10 in the RTI application, notices under section 19 (4) of RTI Act were issued to them and in pursuant to said notice Mr. Dhavalbharti M.Goswami, Mr. Avinash M.Chalwadi, Mr. Mahesh B.Gowda, Mr. Avinash R. Kochrekar, Mr. Hrishikesh B. Adel, Mr. Fondu N. Bhaip, Ms.Tanvi R. Lingudkar, Mr. Laximan H. Parwar,Mr. Ravindra R. Araganji and Mr. Akshay D. Palni appeared and filed their respective replies on 10/2/2019 vehemently objecting for disclosure for the information on the ground that it would intrude their personal privacy and it does not pertain to the routine functioning of the public authority and does not involved public interest. The copy of the same was furnished to the Appellant .
6. Written arguments are also filed by the Appellant on 20/2/2020 and also oral argument were canvassed by his representative Shri Swapnesh Sherlekar. The arguments were also advanced on behalf of Respondent No. 2 PIO by Shri Kashinath Shetye. Third party namely Dhaval Bharti M. Gosavi, Mr. Avinash Chalwadi, Mr. Avinash Kocherekar, Mr.Harikesh B. Adel and Ravindra Araganji also canvanced their arguments. The rest third party namely, Mr. Mahesh Gawada, Mr. Fondu N. Bhaip, Mr. Laxuman H.Parwar, Mr. Akshay D. Palni and Ms. Tanvi R. Lingudkar adopted the argument advanced by other third parties.
7. It is the contention of the Appellant that the Respondent No. 2 has wrongly sighted the section 8(1) (j) of the Act without mentioning the reasons as to how the requested information falls under the purview of said section for denying the access to the information. It was further submitted that the said section is very elaborative and as such the PIO ought to have specified whether there were no public activity involved or it amount to personal information. It was further submitted that order of the Respondent no. 1 First Appellate Authority dated 4/7/2019 is void of any logic and arbitrary and the said order wrongly mentions that the PIO has furnished all the information to the Appellant when infact except information at point No. 1(c), non of other was provided. It was further submitted that the reply of both the Respondents shows that they are not aware of the provisions of the RTI Act and they have no knowledge that the notices has to be issued to the third parties in accordance to section 11 of the Act and such an conduct of both Respondents shows that they are not competent enough to

handle matters under RTI Act. It was further submitted that the intend of RTI Act is to bring the transparency. It was further submitted that the third parties are appointed on a public post and therefore denying access to such information of the selected candidates is a direct attempt to thwart the right to the public granted by the Act. It was further submitted that if the information related to this or any recruitment process is denied to the public then consequently the same is not available for examining by any parliament or any state Legislative members. It was further submitted that the selection process will be in opaque manner wherein the selection of the entire process of the candidate will be accessible and limited to the selected committee only.

8. It was further submitted by the Appellant that in December 2018 Shri Kumar Suresh Rajput was selected for appearing for written examination held on 9/12/2018 for the post of Meter reader in the Electricity Department on ST Category and the Appellant has sought his information vide application dated 27/5/2019 which was replied on 30/7/2019 by the PIO thereby furnishing his application form no. 112 and on perusal of the said form it was seen that he had applied in the ST Category and certificate issued to him by the Government of Karnataka . He further submitted that in Goa special classes/communities have been declared as Schedule Tribes and Scheduled cast and the certificates relied by the said candidate was not valid in Goa. It was further submitted that the said candidate was not selected only after the said fact was exposed by the Appellant . Hence it is his contention that the scrutiny committee commits irregularity in scrutinizing the application and in support of his above contention he relied upon letter dated 30/7/2019 addressed to the Appellant by Respondent no. 2 PIO and the application of the said candidate Shri Kumar Suresh Rajput .
9. It was further submitted by the Appellant that the present information is also sought in larger public interest as he suspect that few candidates who are already selected are undeserving for the post of Jr. Engineer and their selection has been done in fraudulent matter not as per the recruitment rules and for the fear of exposing this scam, the information is requested is being deliberately suppressed by the Authority.
10. It was further submitted that the documents on the basis on which a person has sought an appointment in a public office becomes a documents of a larger public interest. He also further submitted that the information related to the appointment of a person to a government job are not personal information of a person and a people at large are entitle to have the information about the appointment of such person and in support of his case he relied upon the judgment of the Hon'ble High Court of Punjab and Haryana given in w.p. No. 4239 of 2013 (O& M) and by the Hon'ble High Court of Jharkhand given in the w.p. (S) No. 5875 of 2014.

11. The Appellant also relied upon office memorandum dated 29/6/2015 issued by Department of Personnel and Training, Government of India and pointed out clause 4 of said memorandum which stated that “ in order to reduce number of RTI Application related to service matters the information relating to recruitment ,promotions transfers should be brought into public domain promptly”.
12. It was further submitted that the if there is no transparency in selection of the candidates for such important post in Government offices then it will multiply report of corruption and scam coming up on almost daily basis and as such practices support or promotes corruption cannot be allowed to continue. It was further submitted that disclosing the information related to the selected candidates for the evaluating and scrutinizing the competent and eligibility as per the recruitment rule is definitely in the public interest and therefore needs to be disclosed in accordance to section 8(2) of the Act.
13. On behalf of Respondent PIO, Shri kashinath Shetye relied upon the decision given by the Hon’ble Apex Court in Civil appeal No. 10044 of 2010, Central Public Information V/s Suchashchandra Agarwal and submitted that, testing the motive of the Applicant/Information seeker seeking the information is irrelevant under 6(2) of RTI Act but it may be relevant while testing the public interest in case of qualified exemptions. He further submitted that the Appellant was a candidate and since he had sought the information in a larger public interest they may abide the order of Goa State Information Commission.
14. The Third party Mr. Dhavalbharti M. Goswami submitted that the reply given by the PIO in terms of section 7 was earlier circulated on the Social Media i.e on the face book and on the Whatsapp by the Appellant. In the said messages the Appellant has highlighted the names of the Engineers which has caused some sought of hatred in a society. It was further submitted that if the information is disclosed and provided to the Appellant then there is a fear that it can be again misused and their reputation and of the family will be spoiled . It was further submitted that he had applied on the general category and the said was published in the eligibility list by Electricity Department. It was further submitted that their names, category, addresses are also disclosed on the website of Electricity Department. It was further submitted that Appellant is trying to target the few 10 candidates when in fact 64 candidates were selected and appointed on a said post .It was further submitted that among them some are listed on top six on a merits list . It was further submitted that their information should not be disclosed as it would intrude their personal privacy and the said does not involved a public interest . It was further submitted that the Appellant was one of the candidate

for the said post who was not selected hence he is trying to seek the said information with malafides motive.

15. The Third Part Namely Mr. Avinash M.Chalwadi submitted that the post were advertised and also put on website showing what are the requirement under recruitment rules for the said post . It was further submitted that they had enclosed the relevant certificates to the applications and the exams were conducted by the Government Polytechnic. There were more than one thousand candidates who were appeared for written test whose written test marks obtained by different categories were disclosed on Goa electricity website . It was further submitted that only non Goan's are targeted by the Appellant to settle his personal score.
16. Third party Namely Mr. Avinash R. Kochrekar submitted that there is a fear and anxiety in their mind if the documents are given, there is no guarantee that it would not be misused and if the same is done , it would adversely effect their progressive currier. It was further submitted that the Engineers have joined only after the public authority concerned herein verified their documents. It was further submitted that their Certificates details, names of University, Certificate number, Date of Birth, Place of Birth and other relevant details can be furnished to the Appellant in a Tabular Form but not the copies of documents as it can be misused by the Appellant .
17. Third party, Mr. Hrishikesh B. Adel Submitted that it is mandatory to registered their names with Employment Exchange first and the relevant documents are submitted and verified by the Employment Exchange and affixed their stamp on the original certificates . It was further submitted that he has applied for the said post since he got the intimation from Employment Exchange to whom he had submitted documents earlier.
18. The third party namely Mr. Ravindra R. Araganji submitted that he has earlier applied for many Government post and each and every Government Department has verified the documents and after confirming they are calling for written test . It was further submitted that now he is 45 years old and as such cannot create false documents.
19. The Appellant Shri Omkar Naik while countering the arguments of the third party submitted that he is one of the candidate who was not selected and he has right to know the reasons for his non selections and also to obtain the information pertaining to the selected candidates. It was further submitted that he has not approached any social media and the third parties if so desires can check his face book Account and approach the correct forum with their grievances .

20. I have perused the records in the file so also considered the submission made on behalf of both the parties.
21. In the preset case it is admitted by the Respondent PIO and the third parties that the Appellant was one of the candidate who had applied for the said post and was not selected. Though the Respondent PIO initially in his reply dated 22/5/2019 has rejected the said information at point NO. 1(a) in terms of section 8(1) (j) of RTI Act, however during his oral submission before this commission showed his willingness to furnish the said information if the said is sought in a larger public interest.
22. In the present case the Appellant is trying to seek the document i.e the qualification certificates and other relevant documents which third party/selected candidates had submitted for seeking the Government Job. It is the admitted fact by the Respondents that the salaries are paid to the said Engineers from public Ex-chequers. The said information is also available with the said concerned public authority.
23. The Hon'ble High Court of Delhi at New Delhi by a common order dated 12/12/2011 passed in LPA No. 797, LPA 802, LPA 803 and LPA 810 of 2011 has upheld the decision given by the Central Information commission directing the PIO to furnish the experience and education qualification and the other information pertaining to same subject matter. The ratio laid down in above matter is reproduced herein
- (a) LPA 797/2011, Union Public Service Commission v/s N Sugathan has held at para 6 and 7 as under ;

“ The information submitted by an applicant seeking a **public post and which information comprises the basis of his selection to the said public post, cannot be said to be in private domain or confidential**. We are unable to appreciate the plea of any secrecy there around. An applicant for a public post participates in a competitive process where his eligibility/suitability for the public post is weighed/compared vis-a-vis other applicant's. The appointing /recommending authorities in the matter of such selection are expected to act objectively and to select the best. Such selection process remains subject to judicial review.

We are unable to fathom the secrecy/confidentiality if any as to the educational qualification and experience of the selectee to a public post: **such information ordinarily also is in public domain and education qualifications and experience are something to be proud of rather than to hide in a closer**

- (b) **In LPA 802/2011, Union Public Service Commission V/s Naresh Kumar** has held;

“ The Respondent /information seeker in the present case was himself one of the applicants and had not been invited for the interview. The learned single Judge has while dismissing the writ petition held that photocopies of experience certificates cannot be held to be invasion of privacy of requiring the confidentiality under section 8(1)(j) of the Act and further held that disclosure of such information could also be said to be in larger public interest”.

further it has been held; “those who are knocked out before the interview even and did not have a chance to compete any further, are definitely entitle to know that they have not been knocked out arbitrarily to deprive then from even competing any further” .

- (c) In LPA 803/2011 Union Public Service Commission V/s Gourhari Kamila and in LPA hand LPA 810/2011 has held;

“ Information such as the photocopies of experience certificate of all the candidates called for the interviews can be provided and pertaining to other who were not called for the interview should not be allowed, as it cannot be said to be necessary in public interest or for a sake of transference or otherwise.

24. The Hon’ble High Court at Bombay at Goa in writ petition NO. 797 of 2018, Deepak Vaingankar V/s Suryakant Naik has held at para 19 while quashing and setting aside the order of Chief Information Commissioner of Goa State Information Commission, has held;

“That Respondent No. 1 (information seeker) had categorically failed to show what was the public interest or rather the larger public interest which was involved to furnish the personal information of the petitioner

25. The Hon’ble High Court of Punjab and Haryana at Chandigarh in Writ Petition No. 4239 of 2013 Vijay Dheer V/s State Information Commission has held as under ;

“ The only question that would arise for consideration is to whether the entire information sought by Respondent no. 3 would stand covered in the exempting clause as per section 8 sub- clause (j). The exemption under section 8(1) sub Clause (j) would cover information which is in the nature of personal information and the disclosure of which is in the nature of personal information and the disclosure of which would have

no relationship to any public activity or interest or the disclosure of which would have no relationship to any public activity or interest or the disclosure of which would cause unwarranted invasion of the privacy of an individual . **Even under such exemption clause the authority has been vested with the Central Public Information officer/State Public Information Officer or the Appellate Authority as the case may be to even disclose such public information upon satisfaction that the larger public interest would justify the disclosure of the same”.**

26. Hence in view of ratios laid down by the above Hon’ble courts it is cleared that though the information is private in nature, the same can be ordered to be furnished in a larger public interest .
27. In each case the Public interest would be applied to weigh the scales and in balance determine whether the information should be furnished or exempted and on considering the rival submission of the Appellant and third party ,in the present case the point arises for my determination is ;
- (i) *whether the Appellant who was the candidates for the said post has established that the said information is sought by him in a larger public interest and whether he is entitled for the said information in a larger public interest.*
- (ii) Whether the Appellant is entitled to have the information free of cost ?

Point No. 1

28. The law is very clear on the point of personal information that it cannot be claimed as the matter of right, the disclosure can be order only when there is a public interest. This Commission need to verify whether he had produce any evidence to show that the disclosure is in the larger interest of public .
29. The Appellant herein had produced on record the application form obtained by him under another RTI application dated 27/5/2019 of one of the candidates namely Kumar Suresh Rajput (application No. 112) who was selected for appearing the written test held on 9/12/2018 for the post of “Meter reader” in electricity Department and submitted that the documents relied by the said candidates at clause no. 6 i. e the certificate of Scheduled cast issued by the revenue Department of Karnataka was not valid in the State of Goa. The Respondent Shri Kuldip Aroskar who was present during the arguments of the Appellant also admitted the said fact. Hence I find some force in the arguments of the Appellant that there can be some lapses on the part of the public authority concerned herein in scrutinizing documents relied by the third party who were

selected for the said post and the Appellant as a candidate and as a citizen of India is entitled for the said information

30. In the context of apprehension raised by the third party about misuse of their information, The Hon'ble Bombay High Court, in the matter of Mr. Surupsingh Hrya Naik V/s State of Maharashtra reported in AIR 2007 Bombay 121 has held;

“ The court must bear in mind the object of the Right to information Act which is to make the public authorities accountable and their actions open. The contention that the information may be misused is of no consequence, as Parliament wherever it has chosen to deny such information and so specifically provided.”

It has further held that;

“ In those cases where the information sought cannot be denied to either Parliament or State Legislature, as the case may be , then the information cannot be denied unless the third person satisfies the authority that parliament/Legislature is not entitled to the information’.

31. In the present case even though the third party i.e the selected candidates were given opportunities and were heard in details however, they failed to satisfy this commission that the Parliament /Legislature is not entitled to the information . It is also not the case of Respondent PIO that the Parliament /Legislature is not entitled for such records which are available in their official records .

32. The Hon'ble High Court at Zarkhand at Ranchi in writ petition (s) No. 5875 of 2014, GeetaKumari V/s State of Zarkhand has held ;

“In the present case the information being sought for from the petitioner relates to her appointment to a Government job, and the educational qualification of the petitioner. In my considered view, ***these are not the personal information of a person who is appointed to a Government job, and the people at large are entitled to have the information about the appointment of such person and the fact whether the person concerned is holding the required educational qualification for the same or not . As such the information which are sought from the petitioner, are not the personal information which could not*** be furnished under the RTI Act”.

33. The Hon'ble High Court of Punjab and Haryana in matter Vijay Dheer (Supra) has also held

“while examining the scope of an exemption clause under section 8 of the Act, it would be useful to refer to the statement of objects and reasons of the Act itself. The object and reasons of the Act react that the provisions of the Act are to ensure maximum disclosure and minimum exemptions consistent with the constitutional provisions and to provide for an effective mechanism for access to an information and disclosure by authorities still further the Act has been enacted in order to promote transparency and accountability in the working of every public authority. “

34. Hence subscribing to the ratios laid down by the above courts and so also based on the discussion above, I am of the opinion that the Appellant herein has succeeded in establishing that he had sought the said information in a larger public interest and that disclosure of such information would not cause unwarranted invasion of privacy of the individual who are Engineers performing their functions in an Government Department and who are paid salaries from public exchequer. The parliament and or State legislature is also entitled to receive such information. As such keeping in view the objective that Act seeks to achieve, this commission has no hesitation in holding that the spirit of the act enjoins disclosure of information as a general rule and exemption there from as an exception. Hence in my opinion the Appellant is entitled to get the information as sought by him vide his application dated 22/4/2019 is an larger public interest.

Point No. 2

35. Sub section of (1) Section 7 reads as under ;

“(1)Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Informtion Officer, or State Public Information officer, as the case may be on receipt of a request under section 6 shall, as expeditiously as possible , and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9”.

36. The section 7(6) of RTI Acts reads as under :-

“Not withstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub- section (1)”.

37. In the present case the application u/s 6 was filed on 22/4/2019. In the ordinary course the same was required to be decided within 30 days of the receipt of the same. The records relied by Appellant as well Respondents shows that the said application of the Appellant was responded by Respondent PIO on 22/5/2019. Hence the said was responded well within stipulated time of 30 days as required and as contemplated under sub-section (1) of section 7 of RTI Act and even provided the information at point (c) free of cost by the PIO. Hence I find that there is no contravention of provision of RTI Act for the Appellant to get the information free of cost. Hence the same cannot to be provided free of cost to the Appellant.
38. In a domain of human rights, the right of privacy and right to the information has been treated as co-equals and non can be taken precedence over the other, rather a balance needs to be strike hence taking into considerations the apprehension raised by the third parties of their information can be misused, this commission thought of exploring possibility of giving inspection first which was ruled out by Respondent No. 2 PIO on the ground that the files contains other information which are personal in nature and also includes other documents. The Appellant also did not agree for the same.
39. Needless to say that the Appellant is expected to use the said information in securing transparency and accountability in the working of public authorities and should not be and cannot be use to settle the personal scores.
40. It is seen from the records that the RTI application dated 22/4/2019 was responded by the Respondent PIO on 22/5/2019 with in stipulated time as contemplated 7(1) of RTI Act wherein part of the information was furnished to the Appellant. There is no records produced by the Appellant that the other information was denied with malafide motive. On the contrary the representative of PIO during his oral arguments showed their willingness to provide the said information in the larger public interest. As such I am of the opinion that this is not an fit case warranting levy of penalty on PIO, hence, I am declined to grant relief sought by the Appellant at prayer (b) and(c) in the memo of appeal. Only lapse found on the part of Respondents herein is non adhering to provisions of section 11 of RTI Act. The Respondent PIO is directed to be vigilant henceforth while dealing with RTI matters and to comply with the provisions of RTI Act in true spirit.
41. The relief sought by the Appellant at prayer (d) which is in nature of compensation cannot be granted as there is no cogent and convincing evidence produced on records by the Appellant what was the detriment and loss caused to him

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

ORDER

- i. Appeal partly allowed .
- ii. The Respondent No. 2 PIO is hereby directed to calculate the cost of the providing the information and shall sent the intimation to the Appellant giving the details as required u/s 7(3) (a) of the RTI Act within 5 days from the date of receipt of this order and then to furnish the information as sought by the Appellant at serial No. (A), of his application dated 22/4/2019 within 8 days from the date of deposit of the said fees.
- iii. Rest prayers are rejected.

With the above direction appeal proceedings stands closed.

Notify the parties. Authenticated copies of the Order to be provided to the Appellant, Respondents and the third parties.

Pronounced in the open court.

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.

Complaint No. 56/2018/SIC-I

Shri Mahesh Kamat,
CD Seasons Cooperative,
Housing Society, Murida,Fatorda ,
Salcete Goa,403602

...Complainant

V/s.

Shri Sanjay Ghate,
Public Information Officer (PIO),
Kadamba Transport Corporation Ltd. (KTCL),
Paraiso De Goa Building,
Alto, Porvorim Goa.

... .Respondent/Opponent

CORAM: Ms. Pratima K. Vernekar, State Information Commissioner.

ORDER

1. The facts leading to present complaint as put forth by Complainant are as under:-

a. That the Complainant, Shri. Mahesh Kamat vide his application dated 9/06/2018 had sought for certain information from respondent, Public Information Officer (PIO) of Office of Kadamba Transport Corporation Limited on several points as stated therein mainly pertaining to the order of suspension bearing ref. No KTC/Admn/1-1/2007-08/24 dated 08/06/2007, pertaining to orders of compulsory retirement issued to Shri. Mahesh Kamat by Shri Ghoyal. The appellant also sought other records of alteration of Birth Certificate of Shri Naik and records of litigation between Shri Kamat and Shri Kunkollikar.

b. It is the contention of the Complainant that Respondent PIO vide letter dated 07/07/2018 informed him that he has been provided with all the inspection of files and papers which exists in the file, hence no information or inspection required to be given.

c. It is the contention of Complainant that since PIO did not reject the request for the records made by the complainant with reason that "the record sought are not the documents / records not created and held by public authority", Hence he was not satisfied with above reply of respondent, as such he preferred First Appeal on 13/07/2018 in terms of section 19(1) of RTI Act before the Managing Director of Kadamba Transport Corporation Limited being First Appellate Authority who disposed the said appeal on 23/08/2018 by withdrawing himself from hearing the appeal.

d. It is in contention of the Complainant that he being aggrieved by the action of both the respondent is forced to approach this commission by way of complaint in terms of section 18 of Right to Information Act, 2005.

2. In this background the present complaint came to be filed by the Complainant, thereby seeking various relief and direction to PIO such as (i) for providing him the information or to reject the request for information, (ii) directions to PIO to clarify the intention/meaning/ contents communicated by him through the expression "Not Available" as information not generated/destroyed/misplaced, (iii) also for ordering enquiry against PIO, and (iv) for compensating him with the amount of Rs. 50,000/- for torture/harassment/civil consequences and suffering with family members.

3. The matter was taken up on board was listed for hearing. In pursuant to the notice of this commission complainant was present in person. Respondent PIO Shri. Sanjay Ghate appeared and filed his reply on 22/11/2018, 19/03/2019 alongwith the enclosures.
4. Written arguments are also placed on record by the Complainant on 21/12/2018, 9/05/2019, and on 01/11/2019.
5. Written arguments were filed by the Respondent PIO on 24/05/2019.

Arguments of Complainants

6. It was contended by the Complainant that he had sought information from opponent/PIO, KTCL vide application dated 09/06/2018, in the matter of his compulsory retirement from the KTCL and the related matters. The records sought are of mandatory procedure of law precedent to order of compulsory retirement under FR 56(J) and disciplinary proceedings under CCS CCA Rules and the Managing Director of the KTCL, has confirmed in the affidavit filed before the Hon'ble High Court in writ petitions that all conditions essential for exercise of power under FR 56(J) are satisfied. So also the Opponent has filed an affidavit before the Hon'ble Information Commission that the Compulsory retirement of the Complainant is by following the established procedure of law. As such it is contention that information sought by him is the records of public Authority and are available with the Public Authority and cannot be denied disclosure u/s 8(j) who is taking information for himself.
7. It was further contended by the Complainant that he has permitted the PIO to upload his information on the KTCL website, however the PIO withheld from uploading the relevant information and uploaded the irrelevant information which is not sought by him under this Complaint.
8. It was further contended that the PIO is duty bound to seek the information from all unit Heads/Departments of the Public Authority and furnish such information to the Complainant but the PIO restricted his sources to the Personnel, Finance and Legal Departments of KTCL, and failed to seek information from other unit Heads more particularly from the Managing Director who has exercised the powers vested in him under FR 56(j), issued the order under FR 56(j) and sworn the affidavit in defense in writ petitions. It is his contention that in the absence of information being sought from the Managing Director and other unit heads, it cannot be concluded that Managing Director have any unwillingness to share the information with PIO for sharing it with the Complainant.
9. It was further contended by the Complainant that he never carried out the inspection of the records and obtained copies of the record which are the subject

matter of RTI application dated 9/06/2018. It was further contended that he has been time and again asking the PIO to clarify the meaning of what he meant by use of expression “not available” and the PIO is avoiding to give the said clarification and the said issue has remained unresolved.

10. It was further contended by the Complainant that PIO is preventing the complainant from getting the correct and complete information in the matter of his compulsory retirement under FR 56(j) by expressing the information as “NOT AVAILABLE” which does not amount to furnishing of information under RTI, Act and unspecific response to the application as per the judgment of the Hon’ble High Court in writ 761/2008.
11. It was contended by the complainant that PIO ought to have dismissed/ rejected his RTI application by submitting that the information is not existing and therefore not coming under section 2(f) of RTI Act, 2005.
12. It was further contended by the complainant that the PIO chose to harass him by not furnishing the correct and complete information, malafidely denied the request for information and knowingly gave incorrect, incomplete and misleading information and chose to accuse the complainant with allegations connected with the health, connivances with other information seekers and other personal allegations.
13. It was further contended that the Respondent PIO have not furnished the information as sought by him vide his application dated 9/06/2018 and hence the PIO should be penalize under the provision of RTI Act for not furnishing the information which is the information/records of KTCL.

Arguments of the Respondent PIO:-

14. It is contention of the Respondent PIO that the complainant should file the application at one time in case of one subject matter and the Complainant has filed as many as 20 application of repeated in nature and pertaining only one subject matter and subsequent appeals with the first Appellate Authority and before the Second Appellate Authority, proves his ultimate moto to harass PIO and other officials of the KTCL who are performing official duties. And the First appellate authority have made such observation vide order dated 15/06/2018 and directed PIO to dismiss or reject in limine any further application. It was further contended that aggrieved by the said order of the FAA the Complainant stop filing application and filed several application through the other applicant to harass the PIO without having any public interest and the same is evident from the appeal filed by Shri Sushant Bhandare, Anush Kamat and one Mr. Gautam Bane.

15. It was further contended that complainant since not specified with what information required, proves that his intention is only to harass Public Authority including the Office of State Information Commission.
16. It was further contended all document which exist with the Corporation are given by the PIO and the documents which does not exist in the file are replied as not available and the Complainant is aware of the same as he has inspected the files related to his matter on 12/03/2018 in the Office of State Information Commission.
17. It was further contended by the PIO, that complainant has filed several applications in past and PIO goes on answering, more and more questions are generated out of the same and in same proportion number of first and second appeal are growing. It was further contended that the single repetition of RTI application demand valuable time of Public Authority, First Appellate authority and Second Appellate Authority, which time could have been spent to hear another appeal or perform other public duty. It is submitted that Complainant prayer being malafide and to harass Public Authority, should be discouraged.
18. Vide reply dated 19/03/2019 the PIO have submitted that all the information of Shri Mahesh Kamat has been uploaded on the KTCL website and the Complainant can access the said information.
19. It was further contended that from the above the Hon'ble forum should confirm that the complainant has misguided the forum and that the forum is aware about the harassment by the Complainant and filing false Complaint thereby wasting time.
20. It was further contended that this Hon'ble forum not to allow mischief of the Complainant as the Hon'ble High Court in the judgment in writ no. 569/2008 at para 8 has passed remark that the Complainant is seeking unnecessary and unwarranted information.
21. It was further contended by the Respondent that specific information as desired by the Complainant was given to the complainant prior to 12/3/18 in all aspect referred in its subject application.
22. It was further contended that Complainant has approached this Commission with uncleaned hands and the present Complaint has to be dismissed.
23. I have scrutinized records available in the file and also considered the submission of both the parties.
24. Even though, there is no bar or restriction on number of legal proceedings that can be initiated, but the Hon'ble Apex court in C.A. No. 614 of 1998 (arising out of S.L.P.(C) No. 18711 of 1997) and T.C. (C) No. 1397; K.K.Modi V/s K.N.Modi has held:-

“One of the example cited as an abuse of the process of Court is re-litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which as already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court. A proceeding being filed for a collateral purpose or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted.”

“It was further held that “in the case of Greenhalgh V. Mallard (19147 (2) AER 255) the court had to consider different proceedings on the same cause of action for conspiracy, but supported by different averments. The Court, held that if the plaintiff has chosen to put his case in one way, he cannot thereafter bring the same transaction before the court, put his case in another way and say that he is relying on a new cause of action. In such circumstances he can be met with the plea of res judicata or the statement or plaint may be struck out on the ground that the action is frivolous and vexation and an abuse of the process of court”.

25. The Hon’ble High Court of Delhi in writ petition decided on 27th March, 2008; N. D. Qureshi V/s Union of India and Others has held at para 12 :-

“ Moreover, from the above narrated facts, it would be apparent that the petitioner has been re-litigating for a considerable number of years. In our view on the principal of res judicata and re-litigation, the petitioner is even barred from raising new pleas for the same old relief”.

26. Hence according to the above judgment, even re-litigation for the considered number of years and raising new pleas for the same old relief should not be allowed unless special circumstances demands so.

27. It is observed by this Commission that Appeal No. 33/2018 was filed by the Complainant on 30/01/2018 against Respondent PIO which was decided by this Commission on 26/03/2018. In the said proceedings vide application dated 17/10/2017 the Complainant has sought the more or less information pertaining to his suspension and compulsory retirement order. In the said proceedings the inspection of the records was given to the Complainant herein on 12/03/2018 and the documents were accordingly furnished to him.
28. This Commission has also dealt with appeal no. 167/2017 filed by the Complainant against Respondent PIO which was disposed by an order dated 12/03/2018. The said appeal was pertaining to RTI application dated 28/06/2018 pertaining to the same subject matter as sought by the Complainant in the present proceedings. In the said proceedings the PIO furnished him information/clarification at point No. 7 and 8 since the Complainant had only raised grievance with respect to information pertaining to information at point no. 7 and 8.
29. This Commission also dealt with appeal No. 169/2018 filed by Shri Mahesh Kamat on 13/07/2018 pertaining to RTI application dated 11/04/2018 seeking more-or-less the similar information pertaining to order of suspension issued to Mahesh Kamat by Shri Goyal dated 8/06/2007 and the compulsory retirement given to him. The Respondent PIO vide his reply dated 7/05/2018 had given the list of their replies providing information to the Complainant to his earlier RTI applications and has requested complainant not to disturb the office of KTCL by repeatedly requesting for the same information. In the said case affidavit in reply was filed by the Respondent PIO affirming that all documents which exists with the corporation are given by the PIO to the Complainant herein and which does not exist in files/records are replied as not available.
30. It is admitted position that the inspection of the files related to matters of Complainant were given to the Complainant on 12/03/2018 and the present application dated 9/06/2018 is apparently filed after the inspection is carried by the Complainant. The Complainant vide his written argument dated 21/12/2018 have contended that those records are not part of KTCL since he was not served with the order of suspension with predefined suspension period, neither he was served with the charge-sheet and he was not part of disciplinary proceedings. It was further contended in the said written arguments by the Complainant that inspection of records revealed that no review committee is constituted or referred at the base level without which there cannot be foundation for the formation of opinion of the Board. So also he being served as the capacity of the personal manager, OSD, and recording board decision he is aware no such committee constituted for the review of service records for the purpose of compulsory

retirement under FR 56 (j). Hence based on his own contention, it appears that Complainant was aware that the said information was not existing and after inspection he has confirmed and verified the said facts personally.

31. The role of PIO is only to provide the information as exist and as available in the records of the Public Authority. The Complainant herein has not pointed out what was the information which was not provided to him even though the said was existing in the records of public authority concerned herein.
32. Even otherwise as per the ratio laid down by (i) the Hon'ble Apex court in the case of Chief Information Commissioner and another v/s State of Manipur and another (civil Appeal No. 10787-10788 of 2011) and (ii) by the Hon'ble High Court of Karnataka at Bangalore in writ petition Numbers 22981 to 22982/2012 C/W Writ Petition No. 24210/2012 and Writ Petition Numbers 40995 to 40998 (GM-RES) Between M/s Bangalore Electricity Supply Company Limited V/s State Information Commissioner, Karnataka Information Commission , this Commission's has no powers to provide the information in a complaint proceedings which have been requested for by any person, or denied to him and hence the relief sought by the Complainant of direction to PIO to provide him the information in a present Complaint cannot be granted.
33. At prayer 7(4) and 7(5), of the memo of Complaint, the Complainant has sought for the direction to PIO to clarify the intention/meaning/contents communicated by him through expressions "not available" as records not created by the Public Authority or as the information not generated destroyed/ Misplaced.
34. The PIO vide his reply dated 22/11/2018 have clarified that all the documents existing with the corporation are given by PIO and document which does not exist in the files/records are replied as "not available" and had filed affidavit to that effect in appeal No. 169/2018 .
35. The Hon'ble High court of Delhi in writ petition (C)11271/09; in case of Registrar of Companies and Others V/s Dharmendra Kumar Gard and Another's has held that;

"The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e. where the PIO without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case. **If the CIC starts imposing penalty on the PIO's in every other case, without any justification , it would in still a sense of constant apprehension in those functioning**

as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.”

36. The Complainant herein did not point out what was the information not furnished to him and also did not produce convincing and cogent evidence attributing malafides on the part of Respondent PIO. On the contrary the present and past records shows there was no denial of information from PIOs side and available information was time and against made available to complainant. The PIO even went to the extent of giving inspections to the complainant herein and also took necessary steps in uploading his information on the website. Considering all those factors, I find that there was no denial of information from PIOs side.
37. The Complainant has also sought for the compensation of Rs. 50,000/- for the torture and harassment caused to him by Respondent PIO. Considering the provisions of the Act, the said cannot be granted in the present proceedings being a complaint which is beyond preview of section 19 (8) (b) of RTI Act.
38. In view of the above discussion and considering the facts and the circumstances of the present case and by subscribing to the ratios laid down by the Hon’ble Apex court and various Hon’ble High Courts, I do not find merits in the complaint proceedings, and are liable to be dismissed which I hereby do.

Proceedings stands closed.

Pronounced in the open court. Notify the parties

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

Penalty No. 08 /2020

In

Appeal No.342 /2019/SIC-I

Mr. Nevil B. Furtado,
H. No. 51, Copelwado,
Sernabatim, Salcete-Goa.

.....Appellant

V/s

1. Public Information Officer (PIO),
O/o the Village Panchayat of Colva ,
Salcete-Goa.
2. First Appellate Authority,
O/o the Block Development Officer,
Salcete, Margao-Goa.Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

ORDER

1. The penalty proceedings have been initiated against the Respondent under section 20(1) and or 20(2) of RTI Act, 2005 for contravention of section 7(1) of RTI Act, for not complying the order of First Appellate Authority 2005, and for delay in furnishing the information.
2. The full details of the case are mentioned in the main order dated 3/2/2020. However, the facts are reiterated in brief in order to appreciate the matter in its proper prospective.
- 3 A request was made by the Appellant on 20/9/2019 interms of section 6(1) for information on 4 points including the inspections of records from the PIO of the office of Village Panchayat of Colva at Salcete Goa pertaining to encroachment by gaddas in road set back and public spaces since 1/6/2018 till date of filing of application. The said application was not responded by Respondent PIO in terms of section 7(1) of RTI Act. As no information was furnished to the Appellant, as such he being aggrieved by the said action of PIO, preferred the first appeal on 21/10/2019 interms of sections of section 19(1) of RTI Act, 2005 and the First Appellate Authority vide order dated 20/11/2019 allowed the said appeal and directed Respondent PIO to furnish the information and to give the inspection to the Appellant within period of 7 days, free of cost from the date of the order. The Respondent PIO did not furnish him the inspection nor the information within stipulated time as was directed by the First Appellate Authority, as such the Appellant approached this Commission on 28/11/2019 by way of appeal as contemplated u/s 19(3) of RTI Act, 2005, with the grievance stating that the Respondent PIO did not provide him the complete information with malafide intention even though directed by the First Appellate Authority (FAA). In the said appeal the Appellant prayed for directions for providing complete and correct information and also for invoking penal provision

for inaction on the part of PIO in complying with the provisions of RTI Act. In the course of the hearing before this commission, the Respondent PIO showed his willingness to provide the inspection of the records to the Appellant which was agreed by the Appellant. Accordingly the inspection was carried by the Appellant on 25/1/2020 and identified the documents. The PIO sought time to compile the same and since Appellant submitted that he required the said information on priority bases to file writ before Hon'ble High Court in order to avoid further delay and as no information was submitted to the Appellant, the Commission vide order dated 3/2/2020 while disposing the Appeal No. 342/2019 came to the prima-facie finding that despite of giving undertaking by the Respondent PIO before this commission to furnish the information to the Appellant, no information have been furnished during proceedings and the order of First Appellate Authority was not complied by Respondent hence vide order dated 3/2/2020 directed Respondent PIO to furnish the information to the Appellant as sought by him vide application dated 20/9/2019, free of cost within 10 days from the date of the order. The commission also came to the prima facia finding that there was a delay in furnishing complete information and that the Respondent PIO did not act diligently while disposing off the request for information under the RTI Act and hence directed to issue showcause notice to the Respondent PIO as contemplated u/s 20 (1) and 20(2) of the RTI Act and also directed to public authority i.e the village Panchayat of Colva, Salcete Goa to comply with section 4 of RTI Act within 6 months incase the same is not complied.

4. In view of the said order dated 3/2/2020 the proceedings stood converted into penalty proceeding.
5. Accordingly showcause notice was issued to PIO on 7/2/2020, in pursuant to said notice showcause notice PIO Shri Amol Tilve was present alongwith Advocate J. Mandes.
6. Reply was filed by PIO on 5/3/2020 and the supporting documents were placed on records by him vide memo dated 17/3/2020, such as letter dated 23/9/2019 addressed to Block Development Officer-I at Margao by the Appellant, Complaint dated 29/9/2019 filed by Respondents PIO against Appellant and others, letter dated 3/2/2020 addressed to Executive Engineer PWD, Fatorda Margao-Goa by the Secretary of Village Panchayat Colva, Notice dated 7/12/2019 issued to Elvis D'Silva, Notice dated 19/2/2020 to Chairman of Sancgiri Arched Building Society, Colva by the Secretary of Colva Village Panchayat, Memorandum dated 20/2/2020 issued by Director of Panchayat Panaji to the Sarpanch of Village Panchayat Colva and the memorandum dated 24/2/2020 issued by Block Development officer, Margao Goa to Secretary of

Village Panchayat Colva with regard to the order dated 12/2/2020 issued by the Hon'ble High Court of Bombay at Goa, Letter/reply dated 26/2/2020 addressed to Block Development officer, Salcete Margao-Goa by the Secretary of Village Panchayat Colva given with regards to their memorandum/ letter dated 24/2/2020, Letter dated 10/2/2020 addressed to Goa State Pollution Control Board, Saligao Bardez-Goa by the Secretary of Village Panchayat, Notice dated 3/2/2020 issued to Thitu Thomas, to Elvis D'Silva dated 4/3/2020, to all fish vendors of Colva dated 16/3/2020 by the Secretary of Village Panchayat Colva. The respondent PIO also relied upon the notice dated 28/12/2019 and 16/11/2019 issued to Mrs Josephin F. Dias by the Secretary of Village Panchayat Colva, Notices issued by the additional Director of Panchayat –II South at Margao Goa in case No.ADT-II/T.T. No.5/2020, in case No.ADT-II/T.T. No.4/2020, and in case No.ADT-II/T.T. No.3/2020 of intimation of the date of hearing fixed on 20/1/2020. The Respondent PIO also enclosed the letter dated 7/1/2020 addressed to Mr.Sanjeev Joglekar, Goa Coastal Zone management Authority by him so also letters dated 4/2/2020 addressed to BDO, Salcete Margao-Goa and also the letter dated 4/2/2020 to the Director of Panchayat and a letter dated 27/10/2019 addressed to Hon'ble Collector in connection with the order no. 43/19/90/REV/ 11253 dated 16/9/2019.

7. Vide reply to the showcase notice Respondent PIO submitted that he was completely busy with garbage disposal issues and to comply with the order /directions passed by the Hon'ble High Court of Bombay at Goa in suo moto writ petition No. 2/2007 dated 11/7/2019, since the compliance was sought on the said issue by the Hon'ble High Court. It was further submitted that one of the works as per the said directions was required to identify the land for the material recovery facility centre and then send the proposal as per law, which he had to keep on priority basis.
8. It was further submitted by Respondent PIO that he was given the work to prepare the Gram Panchayat development plan, tendering the development tenders, to make arrangement for Fama festivals which is held in the month of October, to conduct the forth night meetings and to facilitate the same to write the resolution taken therein and thereafter to execute the same.
9. It was further submitted that in the month of September and October 2019 he was occupied with the legal issue of the Panchat Ghar after the South Goa Collector issued a showcause notice dated 16/9/2019 to the office of Colva Panchat seeking reasons as to why the land allotted to the local body to build the Panchayat Ghar should not be revolted back to the State Government. It was further submitted that in that contest he had to visit the concerned Advocate office to appraise him and to seek legal opinion on the same

10. It was further submitted that he was also occupied with the issue of sewage plant which is being opposed by the public in Gram Sabha. It was further submitted that he was also preoccupied with the responsibility and duty to create booklet on Bio-diversity and to follow up with the work involved with it and also had to comply with the account opening and Bank procedure.
11. It was further submitted that he had to also deal with the complaints from local for illegal constructions carried out, matters u/s 66(2) and 66(7) of the Goa Panchayat Raj Act, conducting various site inspections, disposing application relating to NOCs and trade licenses which had to be done within time frame.
12. It was further submitted that he had to depend upon very limited staff i.e two clerks and one peon who have to cater to their work as well other work and therefore it was extremely burdening for him to cater to the work which had to be done priority basis as mentioned by him and also to cater to RTI applications and in all process he tried to manage and balance in a best possible ways he could .
13. It was further submitted that the Appellant did not wanted him to be brought to the Secretary of the village panchayat of Colva and hence he had filed false complaint against him to the BDO of Salcet and to the Vigilance Department within 3 days of joining work, making totally false allegation against him and the same did not yield any results to the Appellant.
14. It was also submitted that the Appellant and his brother Shri Nixon Furtado and another person namely Judit Almeida frightened and abused him that not to take charge of Village panchayat Colva and physically assaulted him and he had filed police complain on 29/9/2019 which is registered as FIR bearing No. 101/2019 by the Colva Police Station.
15. It was further submitted that he has furnished the information during the hearing before the commission to the Appellant which has been received by him and endorsed to be satisfied with the same . However the Appellant seeks to press for penalty proceedings against him only with the view to harass him.
16. It was further submitted that the delay in furnishing information was neither deliberate not malafide and was due to the circumstances mentioned in his reply.
17. The matter could not be taken up on 30/3/2020 in view of lockdown due to Covid-19 and as such after lifting of the lockdown fresh notices were issued to parties to appear before this commission on 22/6/2020.
18. In pursuant to said notice, Appellant was represented by his brother Shri Nevil Furtardo . Respondent PIO was absent despite of due service of notice. Opportunities was granted to Respondent PIO to file his additional reply if he so

desire to the penalty proceedings by Email to the Commission but no any such additional reply was filed by the Respondent PIO. As such this Commission presumes and holds that the Respondent PIO has no any other submissions to be made.

19. I have gone through the records available in the file, considered the written submission made on behalf of the Respondent PIO.
20. The respondent PIO has admitted of having not responded the RTI application of the Appellant interms of section 7(1) of RTI Act and of having not complied the order of FAA and delay in furnishing information . However it is his case that it was not deliberate and with malafide intention but for the reasons that he was pre-occupied with the other official work .
21. The RTI Act is enacted to provide fast relief to the information seeker and as such time limit is fixed to provide the information within 30 days and to dispose the first appeal maximum within 45 days .The information was sought somewhere on 20/9/2019 and the information was not furnished to the Appellant till the disposal of the second appeal proceedings. There is delay in furnishing information.
22. The Respondent PIO in his reply contended that the information was furnished during the hearing of this commission however the records of this commission speaks contrary to the submission made by the Respondent PIO . On perusing of the records of the appeal proceedings No. 342/2019 more particularly of dated 3/2/2020, it is seen that the Respondent PIO has sought time to furnish the same and since the Appellant wanted the said information on priority basis as to file writ before Hon'ble High Court, arguments were heard by this commission and the order was passed directing to furnish the information within 10 days. The Respondent PIO have not produced any documents on evidence on record of having furnishing the information to the Appellant
23. Further on perusing the RTI application of the Appellant dated 20/9/2019, the Appellant had also sought for inspection of records, the same could have been very well offered by the Respondent PIO at the initial stage itself which was denied by the Respondent. The Appellant had sought for information on 3 limited points pertaining to limited period from 1/3/2019 till September 2019. Assuming for while that the PIO was busy with other work as mentioned by him in his reply, however nothing prevented him to intimate his said difficulties and fact to the Appellant and to seek extension of time. The same observation of mine are based on the ratio laid down by the Hon'ble High Court for the State of Punjab and Haryana at Chandigarh in W.P. No. 18694 of 2011.[O & M] ; Dalbir

Singh V/S Chief Information Commissioner Haryana & others. It has been held as under;

“There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner”.

24. Though it is contention of PIO that he had to give compliance before the Hon'ble High Court in pursuant to the order of the Honb'le High Court in writ petition No. 2/2007 dated 11/7/2019 and to identify the land for the material recovery facility centre and then to send the proposal as per law, he has not placed on record the compliance report submitted to Hon'ble High court nor also placed on record a proposal submitted as per law.
25. Though it is contention of the PIO that he had to prepare Grampanchayat plan, tendering the development tenders, to make arrangement for fama festivals which is held in the month of October, to conduct the forth night meetings and to facilitate the same to right the resolution taken therein and thereafter to execute the same, the Respondent has not placed on record any of the relevant document to show that he was busy with the above work .
26. Though it is a contention of PIO in the month of September and October 2019 he was occupied with the legal issue of the Panchayat Ghar, after the South Goa Collector issued a showcause notice dated 16/9/2019 to the office of Colva Panchayat seeking reasons as to why the land allotted to the local body to build the Panchat ghar should not be revolted back to the State Government and in that contest he had to visit the concerned Advocate office to appraise him and to seek legal opinion on the same, the PIO has relied only the notices dated 16/11/2019 and 28/12/2019 issued to one person namely Josephin F. Dias.
27. Though the Respondent PIO have claimed that he was completely occupied with the issue of sewage plant and in preparing booklet on Bio-diversity, the PIO has not relied upon any documents in support of his said contentions so also has not relied upon any documents with respect to his other contention also.
28. The information was sought on 20/9/2019 the order was passed by the First Appellate Authority on 21/11/2019 . The most of the Documents relied by the Respondent PIO in support of his contention as mentioned by him in his reply after to the dates, mainly issued and pertaining to the year 2020. Further the memorandum issued by the Director of Panchayat and by the BDO in pursuant to the order of Hon'ble High Court are dated 20/2/2020 and 24/2/2020

respectively and the compliance report given by the Respondent PIO to the Block Development officer is also dated 26/2/2020.

29. On perusal of the letter dated 10/2/2020 issued by the village Panchayat Colva addressed to Goa State pollution control Board, it is seen that the said is written with a reference letter dated 25/1/2020 and the subsequent notices issued to respective parties namely Thitu Thomas to fish vendors, to Elvis D'Silva are all dated some where in February, March 2020.
30. Hence on perusal of the Documents relied by the PIO itself, one could gather that the said has been executed somewhere in the year 2020. The PIO failed to show vis-a-vis any supporting documents as to how and why the delay in responding the application of the Appellant complying the order of first appellate authority and not furnishing the complete information was not deliberate and/or not intentional.
31. The Hon'ble High Court of Punjab and Haryana, in Civil Writ Petition No.14161 of 2009, Shaheed Kanshi Ram Memorial V/s State Information Commission has held;

“As per provisions of the Act, Public Information Officer is supposed to supply correct information that too, in a time bound manner. Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference”.
32. Yet in another case the Hon'ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission while maintaining the order of commission of imposing penalty on PIO has held;

“Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. **It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.**”
33. The Hon'ble Gujarat High Court in special civil Application No.8376 of 2010 in case of Umesh M. Patel V/s State of Gujarat has held that Penalty can be imposed if First Appellate Authority order not complied. The relevant para 8 and 9 is reproduced herein.

“Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty.”

23. The Hon’ble Bombay High Court at Goa bench in writ petition No.304/2011, Johnson V. Fernandes V/s Goa State information commission ;AIR 2012 Bombay 56 has observed , at para 6;

“ Nothing prevented the petitioner for furnishing the information to Respondent de-hors the appeal . in fact , if the petition is intended to furnish the information to Respondent (information seeker) he could have communicated it without waiting for Respondent No. 2 (Appellant) to file an appeal .“

The facts in the said case information was supplied for the first time before the First Appellate Authority. The Hon’ble High Court dismissed the appeal of the PIO by upholding the order of this commission wherein the penalty of Rs. 2000/- was awarded for failure to supply information in accordance with the provisions.

24. The Hon’ble High Court of Judicature of Madras in W.P. No. 3776 and 3778 of 2013, P. Jayasankar V/s Chief Secretary as held;

“ It is only in cases, where the authorities have disobeyed the order of this commission or there is specific findings of obligation of the public authority was not perform in terms of section 6 and 7 the question of penalty or direction to take disciplinary action will arise”.

25. The Hon’ble High Court of Himachal Pradesh in letters patent Appeal No. 4009 of 2013 , Sanjay Bhagwati V/s Ved Parkash and others decided on 5/11/2019 has held at para 16;

“ Bearing in mind the laudable object of the Act mere inaction or laid back attitude on behalf of the Appellant cannot exonerate him of his culpability because higher is the post, not only more but greater are the responsibilities. Even after being put to notice by the petitioner that the information supplied to him is incorrect. Yet the

Appellant took no steps whatsoever to ensure that the true, correct and not incorrect, incomplete or misleading information is supplied to Respondent No. 1 information seeker. If a person refuses to act, then his intention is absolutely clear and is a sufficient indicator of his lack of bonafides. After all malafide is nothing sort of lack of bonafides or good faith”

26. Hence according to the ratios laid down in the above judgment, the PIO has to provide correct information in a time bound manner as contemplated under the RTI Act. The Respondent PIO has pursuantly failed to provide the information to the Appellant. Such a conduct and attitude of Respondent PIO in the present matter appears to be suspicious vis-à-vis the intent of the RTI Act and is not in conformity with the provisions of the RTI Act.
27. The PIO must introspect that non furnishing of the correct or incomplete information lands the citizen before First Appellate Authority and also before this Commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.
28. If the correct and timely information was provided to Appellant it would have saved valuable time and hardship caused to the Appellant herein in pursuing the said appeal before the different authorities. It is quite obvious that complainant has suffered lots of harassment and mental torture in seeking the information under the RTI Act which is denied to him till date. If the PIO has given prompt and correct information such harassment and detriment could have been avoided.
29. Considering the above conduct, I find that PIO has without reasonable cause repeatedly has failed to furnish complete information within time. Thus I am convinced and is of the opinion that this is fit case for imposing penalty on PIO. Hence the following order.

ORDER

- i. The Respondent No. 1 PIO Shri Amol Tilve shall pay a amount of Rs.3000/- (Rupees Three Thousand Only) as penalty for contravention of section 7(1) of RTI Act, for not complying the order of First Appellate Authority within stipulated time as directed by the First Appellate Authority and for delaying in furnishing the information.
- ii. Aforesaid total amount payable as penalty shall be deducted from the salary of PIO and the penalty amount shall be credited to the Government treasury at South- Goa.

- iii. Copy of this order should be sent to the Director of Panchayat of North - Goa at Panaji-Goa and Director of Accounts, south- Goa for information and implementation.

With the above directions penalty proceedings closed.

Pronounced in the open court. 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.

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

Appeal No.244/2018/SIC-II

Shri. Vasudev S. Gaude,
H.No.963, Dhatwada,
Usgaon, Ponda – Goa

..... Appellant

v/s

1.Public Information Officer,
Institution of Goa Lokayukta,
Ribandar - Goa.

2.The First Appellate Authority,
The Secretary,
Institution of Goa Lokayukta,
Ribandar - Goa.

.... Respondents

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 21/05/2018, sought certain information under Section 6(1) of the RTI Act, 2005 from the Respondent Public Information Officer - PIO, O/o Institution of Goa Lokayukta, Ribandar Goa.
2. The Appellant *inter alia* is seeking information at three points: In point 2A) for Certified copy of statement of assets and liabilities submitted by Shri William Ruzario Mascarenhas who was the then the Sarpanch of Usgao- Ganjem-Village Panchayat-Ponda Goa and currently a Panch member for financial year 2016-17. In point 2B) for Certified copies of statement of assets and liabilities submitted by Mrs. Sangeeta D. Gaonkar & Mr. Tulshidas N. Prabhu currently a Panch Member of Village Panchayat Usgaon-Ganjam, Ponda-Goa, for the financial year 2017-18 and in point 2C) Certified copies of action taken report for non submission of statement of Assets and Liabilities by above concern Panch member.
3. It is seen thereafter that the PIO, Institution of Goa Lokayukta vide reply No.ADMN/2018-OGL/RTI-50/695 dated 08/06/2018 furnished to the Appellant point wise information as under: With respect to point No2A, it was informed that Shri. William Ruzario Mascaenhas, Panch Member of Village Panchayat Usgaon-Ganjam, Ponda Goa has not submitted the statement of assets and liabilities for the financial year ending 31st March 2017 and hence the information sought for is not available in this office.
4. In point no.2B, the PIO informed that Shri. Tulshidas N. Prabhu, Panch Member of village Panchayat Usgaon-Ganjam, Ponda Goa has not submitted the statement of assets and liabilities for the financial year ending 31st March 2018 and hence the information sought for is not available in this office and whereas Mrs. Sangeeta D. Goankar Panch Member of V. P. Usgaon Ganjem has submitted the statement of assets and liabilities for the financial year ending 31st March 2018, however, the information asked for cannot be supplied as it attracts the provision of section 8(1)(e) and 8(1)(j) of the RTI Act, 2005.
5. Finally the PIO with respect to point no.2C, informed the appellant that the action is yet to be taken as contemplated u/s 21(2) of the Goa Lokayukta Act 2011 for the non submission of assets and liabilities by the aforesaid Panch Members for the financial year ending 31st March 2017 and for the financial year ending 31st March 2018. The PIO also enclosed photo copies of the action taken report for the non submission of assets and liabilities for the financial year ending 31st March 2016 numbering from 1/C to 3/C.

6. Not satisfied with the reply of the PIO that certain information is not furnished, the Appellant filed a First Appeal inwarded on 09/07/2018 and the First Appellate Authority - FAA vide Order dated 03/08/2018 dismissed the First Appeal. The FAA in his Order observed that the Institution of Goa Lokayukta has been set up for the purpose of inquiry into complaints against the public functionaries in the State of Goa.
7. The FAA has also observed that the Assets and liabilities statement is to be used only when allegations are made against the public functionaries and the Lokayukata in the course of an investigation may use the assets and liabilities statement to ascertain whether the public functionary has amassed wealth through illegal means. It is meant only for this purpose.
8. The FAA concurred with the decision of the PIO and held, that since Personal Information sought for in the Assets and Liabilities statement which ex facie has no relationship with public activity or interest and the fact that the appellant has not shown any reason why the information should be disclosed and as the disclosure of this information would cause unwarranted invasion of the privacy of the individual and there is no larger public interest that justifies the disclosure of this information and the PIO has rightly concluded that the information sought for comes within the exemption from disclosure under Section 8(1)(j). The FAA however did not agree with the that Sec .8(1)(e) of the RTI Act is applicable, as all the elements of a legal 'fiduciary relationship' are not present between this Institution and the public functionary.
9. Being aggrieved with the order passed by the FAA the Appellant has approached the Commission by way of Second Appeal registered on 08/10/2018 and has prayed that the impugned order of the FAA dated 03/08/2018 be quashed and set aside and for imposing penalty and for other such reliefs.
10. **HEARING:** This matter has come for hearing on numerous previous occasions and hence by consent is taken up for final disposal. During the hearing the Appellant Shri. Vasudev S.Gaude is represented by Adv.Valmiki Menezes who is present alongwith Adv.Akshay Shirodkar and Adv. Barbara Andrade. The Respondent PIO, Shri. Laxman Zalmi is present in person. The FAA, Shri. Mathew Samuel, Secretary, Lokayukta is also present in person.
11. **SUBMISSIONS / ARGUMENTS:** Advocate Valmiki Menezes for the Appellant in the course of his submissions has briefed the Commission on the salient features of various sections of the Goa Lokayukta Act and argued that the point for determination before this commission is whether the statement of Assets and Liabilities file by a public functionary under Section 21 of the Goa Lokayukta Act, 2011 are considered confidential information under Section 18 of the said Act and are covered by exemption under Section 8 (1)(J) of the Right to Information Act and Whether in the

light of Section 18(2) of the Lokayukta Act, 2011, assuming such statement of Assets and Liabilities/evidence are “confidential “ under Section 18 (1), such “Information” is not held in fiduciary capacity under the Right to Information Act and therefore should be in the Public Domain”

12. Advocate Valmiki Menezes also points out that Section 18(1) considers information obtained by the Lokayukta or any officer under section 8(5) of the Lokayukta Act in the course of or for the purpose of preliminary inquiry investigation and Evidence recorded to be treated as confidential.
13. Advocate Valmiki Menezes further argues that preliminary inquiries are conducted under Section 12, detailed investigation under Section 13 and evidence is recorded for the purpose of such investigation under Section 15 of the Act. None of the material collected under these provisions can be termed to be held in fiduciary capacity as no investigating Authority holds material collected under an investigation in Trust. A Lokayukta is not a Trustee of personal information of a public Functionary.
14. It is also submitted that the provision of Section 8(1)(j) cannot apply in these circumstances, more so since the very purpose of mandating the filing of the details of assets of a Public functionary is in public interest Similarly under Section 8(1)(e) there is no absolute bar to release information held under a fiduciary relationship, if the same sub serves the larger public interest as in the present case.
15. Advocate Valmiki Menezes files a detailed reply dated 28/02/2020 which is taken on record and one copy is also served on the Respondents. He has placed reliance on the following case laws Girish Ramchandra Deshpande V/s CIC (2013), CBSE V/s A. Bandoupadhyay (2011) and Lok Prahari V/s Union of India (2018).
16. Per Contra the PIO submitted that he had given a reply dated 08/06/2018 to the Appellant and had furnished point wise information after receiving the RTI application dated 21/05/2018 and whereas regarding the information sought about one Mrs Sangeeta D Gaonkar, Panch Member, V.P. Usgaon-Ganjam, the same was denied as it being exempted under section 8(1)(e) and 8(1)(j) of the RTI act 2005.
17. The FAA in his submission maintained whatever is stated in the order passed by him on 03/08/2018. The FAA vehemently argued that the Institution of Goa Lokayukta is a repository of private and personal information of some citizens i.e public functionaries in the State of Goa, which another citizen, viz., the appellant wants to access. The information in the Assets and Liabilities statement of Ms. Sangeeta Gaonkar, Panch of Usgao-Ganjam contains detailed information inter alia, of the money she has in her hand, bank account/fixed deposit/Post Office Accounts/Unit Trust, Govt. securities, shares in companies, money owed to others, Insurance Policies, Provident Funds, jewellery, vehicles, Antiques, Investments in Business concerns, household goods &

furniture, agricultural land, buildings and creditors. This information covers the entire gamut of her personal life, including very private intimate details.

18. The FAA further argued that it not seen how these details have any bearing to her (Ms. Sangeeta Gaonkar) public activity or interest, and the appellant has not made out any grounds to show how it is so. The FAA stated that Personal information which essentially touches the privacy of the individual cannot be disclosed, unless its relationship to public activity or Public interest is shown.
19. The FAA also submitted that even if the individual is a public functionary, he or she still enjoys a fundamental right to privacy, which is not to be breached, and S.8(1)(j) of the RTI Act protects it. This has also been reiterated by the Supreme Court in K.S.Puttasamy vs. Union of India (2017) 10 SCC 1.
20. The FAA finally concluded his arguments by pointing out that the Institution of Goa Lokayukta has been set up for the purpose of inquiry into complaints against the public functionaries in the State of Goa. The Assets and Liabilities statement is to be used only when the allegations are made against the public functionaries and the Lokayukta in the course of an investigation may use the Assets and Liabilities statement to ascertain whether the public functionary has amassed wealth through illegal means. It is meant only for this purpose.
21. **FINDINGS:** The Commission has heard the respective parties at length and perused the material on record including the RTI application of the appellant dated 21/05/2018, Initial reply of the PIO dated 08/06/2018, order of the FAA dated 03/08/2018, appeal memo, reply filed by Advocate for the Appellant dated 28/02/2010, reply of the PIO and FAA dated 04/04/2019 and additional reply dated 11/06/2019.
22. The only question that would arise for consideration is as to whether the information sought by Appellant falls within the ambit of Personal Information and therefore qualifies under exemption as per section 8(1)(j) of the RTI act 2005. The exemption under Section 8 clause (1) sub clause (j) would cover information which is in the nature of personal information and the disclosure of which would have no relationship to any public activity or interest or the disclosure of which would cause unwarranted invasion of the privacy of an individual.

Section “8. Exception from disclosure of information states- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen (j) information which relates to personal information the disclosure of which has not 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.”

23. While examining the scope of an exemption under Section 8 of the Act, it is necessary in the interest of justice to attempt to strike a balance between public interest as also the privacy of the individual concerned.
24. No doubt Advocate Valmiki Menezes for the Appellant has briefed the Commission on various sections of the Goa Lokayukta Act and argued that the provision of Section 8(1)(j) cannot apply in these circumstances, more so since the very purpose of mandating the filing of the details of assets of a Public functionary before the Loyakutya is in public interest.
25. However the Commission finds that as pointed out by the FAA the Institution of Goa Lokayukta has been set up for the purpose of inquiry into complaints against the public functionaries in the State of Goa. The Assets and Liabilities statement is to be used only when the allegations are made against the public functionaries and the Lokayukta in the course of an investigation may use the Assets and Liabilities statement to ascertain whether the public functionary has amassed wealth through illegal means. It is meant to be used only for this purpose.
26. The FAA has also stressed on the point that even if the individual is a public functionary, he or she still enjoys a fundamental right to privacy, which is not to be breached, and S.8(1)(j) of the RTI Act protects it while relying on the Judgment of the Supreme Court in K.S.Puttasamy vs. Union of India (2017) 10 SCC 1.
27. In this connection the Commission finds that nowhere has the appellant while seeking information under RTI shown how the information sought relates to public activity and what the public interest is?
28. The RTI applicant ought to have satisfied the PIO that there is larger public interest that justifies the disclosure of such information more so as the information in the Assets and Liabilities as submitted by the FAA contains details of cash in hand, bank account/fixed deposit/Post Office Accounts/Unit Trust, Govt. securities, shares, etc and the information covers the entire gamut of her personal life, including very private intimate details.

R.K Jain versus Union of India & Anr. (LNIND 2013 SC 489) Held: 8 (1)(j) of the RTI Act states there shall be no obligation to give 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 Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.

29. Therefore this Commission come to the conclusion that the information sought of assets and liabilities of Mrs. Sangeeta D. Gaonkar who though may be a Public functionary does not fall under the domain of larger public interest and the same qualifies as ‘Personal Information’ which has no relation to public activity and which if disclosed may cause unwarranted invasion of the privacy of the individual. The PIO was therefore justified in denying the information being thus exempted u/s 8(1)(j).

The Bombay High Court in Writ Petition No.8753 of 2013 in the case of Shailesh Gandhi vs. CIC held that since the right to privacy has been recognized as a fundamental right to which a citizen is entitled to, therefore, unless the condition mentioned in Section 8(1) (J) is satisfied, the information cannot be provided.

DECISION: In view of the above discussion the commission arrives at the decision that ‘No intervention is required with the order of the First Appellate Authority (FAA) which is a reasoned and justifiable order’. The appeal accordingly stands dismissed.

Notify the parties concerned. Authenticated copies of the order be given free of cost.

Appeal No: 06/2020/SIC-II

Adv. Aires Rodrigues
C/G2, Shopping Complex,
Ribandar Retreal,
Ribandar Goa.
403 006.

... Appellant

v/s

1. First Appellate Authority,
Mr.Pankaj Kumar Singh
Suptd. of Police(Crime),
Ribandar-Goa.

2. Public Information Officer,
Mr. Mahesh K. Gaonkar,
Dy. Suptd. of Police,
Crime Branch, Ribandar-Goa.

.... Respondents

3. Assistant Public Information Officer
Mr. Jivba Dalvi, Police Inspector
Crime Branch,
Ribandar-Goa.

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 16/10/2019 addressed to the PIO, Office of the Director General of Police, Panaji sought information at three points under section 6(1) of the RTI act 2005.
2. The Appellant is seeking information of (1) No of complaints received by the Goa Police from 2005 to date against person allegedly holding dual nationality. (2) a list of person against whom the above mentioned complaints have been filed alongwith the name of the Complainants and date of Complaint and (3) Current status of each of the above complaints received.
3. It is seen that the PIO, Office of the Director of General of Police, Panaji vide his letter No.OS/ADMN/RTI-269/1948/2019 dated 18/10/2019 has transferred the RTI application under Section 6(3) of the RTI Act to ten other PIOs namely (1) the PIO/Chief Electoral Officer (Goa), Near Traffic Cell, Altinho, Panaji-Goa, (2) PIO/DYSP Crime, Ribandar, (3) PIO/SDPO, Panaji, (4) PIO/SDPO, Porvorim (5) PIO/SDPO, Mapusa (6) PIO/SDPO, Bicholim (7) PIO/SDPO, Ponda (8) PIO/SDPO, Margao, (9) PIO/SDPO, Vasco and (10) PIO/SDPO, Quepem.
4. It is the case of the Appellant that he has received information from all other 09 PIO's except the PIO Dy. Superintendent, Crime Branch Ribandar who in his reply No.DYSP/CB/RTI.Pet-76-19/1506/2019 dated 07/11/2019 informed the Appellant in all three points as follows: As per the information supplied by APIO, Shri. Jivba G Dalvi, the information sought cannot be furnished as you being foreign national and only Citizen of India can seek information under section 3 of the RTI Act. 2005.
5. Not satisfied with the reply furnished by the PIO, the Appellant filed a First Appeal on 12/11/2019 and the First Appellate Authority (FAA) vide his Order dated 16/12/2019 upheld the reply of the PIO and dismissed the First Appeal under section 3 of the RTI Act.
6. The FAA in his Order has *inter alia* observed that "In this regard it was explained in detail by the PIO and APIO informed that as per the Investigation Officer Mr.Satish Gawade in Old Goa PS. C R No.12/2016 that during the course of investigation in to the aforesaid case, it is revealed that the case Appellant is a Portuguese National having Portuguese Passport No.H.206509 issued on 11/02/2005 date of expiry on 11/02/2015 issued at G.CIVIL DE LISBOA. On the above strength of above Portuguese Passport, the appellant has arrived in India. Accordingly, a charge sheet has been filed in the Hon'ble Court of JMFC, Panaji and thus "I agree with the reason given by the Respondent No.1 that the Appellant is not entitled to the information under section 3 of the RTI Act."

7. Being aggrieved with the Order of First Appellate Authority (FAA), the Appellant thereafter filed a Second Appeal registered with the commission on 26/12/2019 and has prayed to directed the Respondent PIO to furnish information as sought for in the RTI application dated 15/10/2019 and for imposing penalty and other such reliefs.
8. **HEARING:** During the hearing Appellant Adv. Aires Rodrigues is present in person. The Respondent PIO, Mr. Mahesh K. Gaonkar, Dy. Suptd. of Police, Crime Branch, Ribandar is present alongwith APIO, Mr. Jivba Dalvi Police Inspector, Crime Branch, Ribandar Goa. The FAA is absent. This matter by consent is taken up for final disposal.
9. **SUBMISSION:** At the outset the Appellant submits that the reply of the PIO dated 07/11/2019 is not maintainable as he is an Indian national. The Appellant states that he was born in Goa before liberation and is a permanent resident of Goa and produces documents in support of his claim viz Voters Card bearing no FF26904031, Aadhaar Card bearing no 873953363572, Driving License No. GA0720060009508 and ID card issued by the Bar council of Maharashtra having no MAH/1802/2001 which are taken on record.
10. The Appellant further submits that police investigations do not prove that he is a foreign citizen. Adv. Aires Rodrigues vehemently argues that the First appellate authority (FAA) in his order has without application of mind upheld the explanation given by the PIO and APIO who wrongly presumed that he is a foreign national and denied information under RTI act 2005. Adv. Aires Rodrigues as such requests the Commission to quash and set aside the impugned Order of FAA and issue directions to the PIO to furnish the information as sought in the RTI application free of cost. The Appellant does not insist for penalty against the PIO.
11. The PIO, Mr. Mahesh K. Gaonkar submits that as the Crime Branch was investigating the matter pertaining to the foreign nationality of the Appellant and it is revealed that the Appellant is a Portuguese National having acquired a Portuguese Passport bearing No.H.206509 issued on 11/02/2005 and with date of expiry on 11/02/2015 issued at G.CIVIL DE LISBOA.
12. The PIO further submitted that on the strength of the above Portuguese Passport, the appellant has arrived in India and a chargesheet has been filed in the Hon'ble Court of JMFC, Panaji. The PIO finally submitted that as police investigations have established that the Appellant is a foreign national as such the information was denied because as per the provisions of the RTI Act 2005, only Indian Citizens are entitled to seek information in terms of section 3.

13. **FINDINGS:** The Commission has heard the submission of the respective parties and perused the material on record including the appeal memo, reply of the PIO and order of the FAA.
14. The Appellant in his appeal memo has *inter alia* stressed on the point that the right to information is an intrinsic part of the fundamental right to free speech and expression and guaranteed under article 19(1)(9) of the constitution,. The Appellant has also in para XXXVI of the appeal memo stated that there is no decision by the appropriate authority to hold that the Appellant is a Portuguese Citizen and the ground to refuse the information is a total ruse to justify an otherwise unjustifiable ground to wrongly denying information which is unsustainable.
15. The Commission finds that the FAA in his order has recorded that ” The PIO/ Dy. SP, Crime Branch and APIO/ Police Inspector, Crime Branch, Ribandar stated that the appellant is not a citizen of India and as per section 3 of the RTI Act, 2005 and he cannot seek information”.
16. **Point for Determination:** The point therefore for determination before the Commission is Whether the appellant is a Indian Citizen or a Foreign National and whether as such he is entitled or not entitled to seek information as per the RTI act 2005.?
17. No doubt, only Citizens of India have right to seek information as per section 3 of the RTI act 2005 and the PIO denied information as the crime branch was investigating the matter and as per documents obtained including Portuguese Passport bearing No.H.206509 it has come to light that the Appellant is a foreign national, however the Commission finds that nothing has been brought on record by the PIO to show that the appellant has renounced his Indian citizenship or has surrendered his Indian passport.
18. As per law it is mandatory for all persons who held an Indian Passport to renounce their Indian Citizenship upon acquiring any foreign nationality and obtain surrender of Indian Citizenship certificate, therefore police investigation that led to obtaining some documents showing details of Portuguese passport issued in the name of a person is not conclusive evidence as to the citizenship or nationality of that person.
19. The Police investigation of a passport at the most raises a presumption that the person has acquired foreign citizenship, but this presumption can be rebutted and opposed and the burden lies upon that person to prove that he is not a foreigner before the appropriate authority.
20. Even assuming that the Appellant had acquired Portuguese passport No. H206509 issued on 11/02/2005 and date of expiry on 11/02/2015 issued at G.CIVIL DE

LISBOA and which is presumed to be genuine, such passport by itself does not extinguish the Appellant's (Shri Aires Rodrigues) Indian Citizenship.

21. The question of whether the appellant had given up his citizenship of this country and acquired that of a foreign country can be tried and decided by the Central government who is the Competent Authority by virtue of Section 9 of the Citizenship Act and Rule 30 of the Citizenship Rules framed under the Act. The PIO therefore has **no locus standi** to venture into the question of the appellant's citizenship and to deny furnishing the information under the RTI act.
22. The Appellant in the course of his arguments has submitted that he was born in Goa before liberation and is a permanent resident of Goa. The appellant has produced several documents in support of his claim including aadhar card, voters card, driving license and Identity Card issued by the Bar Council of Maharashtra and Goa (showing that the appellant is an Advocate).
23. The appellant in his appeal memo has stated that he is Indian National and an Advocate by profession and has for four decades espoused various social causes for which information under RTI has been obtained from various authorities. It is a fact the appellant has filed several RTI applications and information has been provided by the PIO's who have never questioned the Appellant's Indian citizenship.
24. **DECISION:** In view of the foregoing discussions, the Commission comes to the conclusion and reaches to the decision that until such time it is decided and established by the Competent Authority and or the appropriate forum including a competent court of law that the appellant has acquired citizenship of a foreign country including Portuguese Citizenship and consequently has given up and terminated the Citizenship of India, the Appellant, Shri Aires Rodrigues continues to remain an Indian Citizen for all practical purposes and is thus is entitled to seek information in terms of section 3 of the RTI act 2005 by filing an RTI application as per section 6(1) and there is no impediment on the part of the PIO to furnish information as sought by the Appellant in his RTI application. **Consequently, the order of the FAA dated 16/12/2019 is hereby quashed and set aside.**
25. The Commission directs the PIO, Office of Supdt. Of Police, Crime Branch, Ribandar-Goa to furnish the information free of cost by hand delivery to the appellant under acknowledgement within 15 working days from the date of receipt of the order. The PIO shall intimate the Appellant after the information is ready so as to enable the appellant to come and collect the same in person. The PIO to file a compliance report by enclosing a copy of one set of all documents that are furnished to the Appellant for record of the Commission.

With these directions the Appeal case stand disposed.

All proceedings in the appeal case also 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.

Appeal No.161/SCIC/ 2012

Mr. Uday A.C. Chari,
R/o. H. No. C-5/55,
Mala, Panaji – Goa.

..... Appellant

v/s

1.Public Information Officer,
V. M. Salgaonkar College of Law,
Miramar, Panji – Goa.

2 Shri C Radhakrishnan.
Asstt. Engineer, Div. III, S. D. II,
Public Works Department,
Tonca, Caranzalem – Goa.

3. First Appellate Authority,
V. M. Salgaonkar College of Law,
Miramar, Panaji-Goa.

..... Respondents

ORDER

1. **Brief facts of the case** are that this Second Appeal No.161/SCIC/2012 arises out of an earlier Complaint case being Complaint No. 471/2012 wherein the matter was remanded back to the First Appellate Authority (FAA) and the FAA vide an Order dated 11/08/2012 has dismissed the First Appeal for the reasons set out in the Order therein as the information sought pertains to ‘Personal Information and there is no Public Interest involved’. The Appellant being aggrieved has assailed the said Order by way of a Second Appeal filed before the Commission and registered on 06/09/2012.
2. The Appellant in the Appeal memo has raised grounds that the said order is arbitrary, illegal, capricious, unreasonable and deserves to be quashed and set aside and has prayed to direct the PIO to furnish all information as sought in the RTI application dated 23/01/2010 and for cost, disciplinary action and other such reliefs.

3. This matter has come up for hearing before the Commission on several previous occasions and hence taken up for final disposal. At a hearing held on 16/01/2019, the Appellant Mr. Uday A.C. Chari was present in person. The PIO, Respondent No. 1 V. M. Salgaonkar College of Law Miramar - Goa was absent. The Respondent No. 2 Shri. C. Radhakrishnan, Asstt. Engineer, Div. III, S. D. II Public Works Department, Tonca, Caranzalem – Goa was present and the matter was posted for orders.
4. However as the Respondent No 1, PIO, V. M. Salgaonkar College of Law Miramar - Goa was absent and not heard in the matter and further the fact that both the Appellant and Respondent No 2 have grudges with each other, the Commission so as to allow sufficient time to the parties to mediate and settle the differences between themselves more so as Respondent No 2 has retired from government service had brought the matter again on board and fresh notices issued to the respective parties.
5. **HEARING:** Pursuant to the notices dispatched, the Appellant Uday Chari is present in person. The Respondent No.1 & 3 is represented by Advocate C. Fernandes. Shri Ratnakar Naik UDC is present on behalf of Respondent No.2, Asstt. Engineer, Div. III, S. D. II. Shri. C. Radhakrihnan (third party) appears after conclusion of the hearing. In view that the Appellant and the Respondent No 2 have not reconciled and are unwilling to arrive at an amicable settlement, the Commission takes up the matter for final disposal.
6. **SUBMISSIONS OF THE APPELLANT:** The Appellant *inter alia* submitted that the PIO, vide reply dated 15/02/2010 had informed to collect the information on payment of Rs.44/- and when the Appellant approached the office of the PIO, it was informed that a third party has objected to furnishing the information before the First Appellate Authority who disposed of the First Appeal with a direction to the PIO to consider the objection raised by the Respondent No 2 and because of which the PIO did not furnish the information.
7. The Appellant maintained what he submitted at the hearing held on 16/01/2019 and reiterated that the Respondent No.2, Shri. C. Radhakrishnan was then working as an Asstt. Engineer, Div. III, S. D. II PWD, Tonca, Caranzalem and took admission at the V.M. Salgaonkar College of Law, Miramar without prior permission of the Government in the year 2009 and was attending classes between 7.30 a.m. to 11.30 a.m during office hours and thus hampering his duties which is highly objectionable, unwarranted and in violation of C.C.S Conduct Rules.
8. The Appellant also submitted that a third party under Section 11 of Act can object to furnish information, but the Public Information Officer (PIO) can overrule the objections and disclose information on the grounds that the information sought is in larger public interest. It is submitted that Respondent No 2 was holding the post of

Public servant in P.W.D and had failed to discharge his official duties and instead was attending the classes during the office hours and no NOC is given to him by the government to attend the classes during Office hours and as such every citizen has right to seek the information in larger public interest.

9. **SUBMISSIONS OF THE Respondent No.1:** Advocate C. Fernandes for The Respondent No.1 PIO, V. M. Salgaonkar College of Law Miramar - Goa submitted that the information sought was of the year 2009 and that hundreds of students take admission in the Law College and the information sought by the Appellant about the Student Shri C Radhakrishnan who took admission in the year 2009 is not available. It is also submitted that the First Appellate authority had dismissed the First Appeal on the ground that the information sought is Personal Information.
10. **SUBMISSIONS OF THE Respondent No.2** At the hearing held on 16/01/2019, Respondent No.2, Shri. C. Radhakrishnan in his submission had pointed out that of the 6 points of the information sought in the RTI application, the decision not to furnish information at point no 2 -passing certificate and point no 4- birth certificate was taken by this Commission in Appeal No. 318/2008 and a contrary decision cannot be taken in the present Appeal.
11. Shri. C. Radhakrishnan had submitted that information at the point no 2 which is the passing certificate of Degree from recognized university and information as point no 6 which is copy of NOC granted by the Government to study LL.B in the RTI application dated 23/01/2010 have already been collected by the appellant in the year 2017 from the PIO, P.W.D. Altinho, Panaji without the knowledge of this Respondent and that the Appellant has concealed this fact before this commission.
12. Shri. C. Radhakrishnan also submitted that the Appellant is in the habit of filing various additional papers and irrelevant case laws, incorrect and vague arguments and concealing certain facts with a view to confuse the Commission and hence the Appeal deserves to be dismissed and costs should be imposed on the Appellant for wasting valuable time of the Commission.
13. The Respondent No.2, Shri. C. Radhakrishnan also submitted that the Appellant had failed to establish public interest and that the information sought by the Appellant is personal information hit by provision of 8 (1)(J). The Respondent No.2 stated that all the judgments submitted by the appellant including the High Court and Supreme Court Judgments are not in his favour.
14. The Respondent No.2 further submitted submits that there was a similar being Appeal No.318/2008 by this Commission between the same parties which had already decided that the copies of passing certificates, copies educational qualification, Date of birth etc are personal information. It is also submitted that the Appellant had also filed the Writ

Petition before the High Court in Writ Petition No.377/2010 and he failed to get any relief and instead of challenging the High Court order before the Supreme Court, approached another PIO, of the Salgaonkar College of Law for the same information.

15. The Respondent No.2, Shri. C. Radhakrishnan stated that it is misuse of the RTI Act to settle personal scores out of vendetta and not for public interest and mainly to harass because of a dispute regarding laying of silver water pipe by PWD in the property encroached by the Appellant and because of which the Appellant has filed more than 50 RTI applications. The Respondent No.2 stated that the First Appellate Authority (FAA) has passed a reasoned Order which needs no interference.
16. The Respondent No 2, Shri. C. Radhakrishnan also drew the attention of the Commission, that the Appellant who is a Govt Servant in IPHB Bambolim had himself objected by his letter dated 28/08/2009 and refused to provide this attendance, qualification details, NOC's, movement register and other such documents under RTI Act 2005 to an RTI Applicant stating that these information are personnel information and exempted under section 8(J) of the RTI Act.
17. The Respondent No 2 Shri. C. Radhakrishnan also had stated that there are two cases and charge sheets filed by the Panaji Police against this Appellant, one for destroying govt. property and another for theft of Govt. documents. The Appellant who is a Govt. servant is now on bail on both these matters and fears that this Respondent who is prosecution witness in both this matters may expose his criminal and illegal actions.
18. The Respondent No 2 Shri. C. Radhakrishnan argued that the LLB Course was had done with due permission from the Govt. of Goa and that copy of the said NOC and educational certificate copy was also illegally obtained by the Appellant from PWD due to a wrong decision of PIO and Appellate Authority without knowledge of this Respondent.
19. The Appellant and Respondent No 2 have relied on various Judgments and Orders passed by the Information Commission.
20. **FINDINGS:** The Commission has heard the respective parties at length and has perused the following material on record including the order of the FAA. The main point for determination is whether the information sought in the RTI application dated 23/01/2010 falls within the ambit of Personal Information which has no relation to public activity and therefore qualifies under exemption as per section 8(1)(j) of the RTI act 2005.
21. Section "8. Exception from disclosure of information states- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen (j) information which relates to personal information the disclosure of which has not 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.”

22. The Respondent No 2, Shri. C. Radhakrishnan, admittedly, was working on the post of Assistant Engineer, PWD and is as such holding a public post. The information sought by Appellant primarily related to the details of the admission of the Respondent No 2, Shri. C. Radhakrishnan in the LL.B Course including copies of the passing certificate of Degree from recognized University, attendance and timings of the classes, birth certificate, migration certificate and NOC copy and the information sought would certainly fall within the scope and ambit of the expression “Information” as defined under Section 2 sub clause (f) of the Act.
23. The only question that would arise for consideration is as to whether the information sought by Appellant would stand covered in the exemption clause as per Section 8 sub clause (j).
24. The exemption under Section 8 clause (1) sub clause (j) would cover information which is in the nature of personal information and the disclosure of which would have no relationship to any public activity or interest or the disclosure of which would cause unwarranted invasion of the privacy of an individual. Even under such exemption clause the authority has been vested with the Public Information Officer (PIO) or the First appellate authority (FAA) as the case may be to even disclose such public information upon satisfaction that the larger public interest would justify the disclosure of the same.
25. While examining the scope of an exemption clause under Section 8 of the Act, it would be useful to refer to the statement of objects and reasons of the Act itself. The object and reasons of the Act recite that the provisions of the Act are to ensure maximum disclosure and minimum exemptions consistent with the constitutional provisions and to provide for an effective mechanism for access to an information and disclosure by authorities. Still further the Act has been enacted in order to promote transparency and accountability in the working of every public authority and it is necessary therefore in the interest of justice to attempt to strike a balance between public interest as also the privacy of the individual concerned.
26. The Appellant has vehemently argued that the information sought in the RTI application dated 23/01/2010 is in larger public interest as the Respondent No.2 Shri. C. Radhakrishnan was holding the post of Public servant in P.W.D and took admission at V.M. Salgaonkar College of Law, Miramar without prior permission from the Government in the year 2009 and was attending the classes between 7.30 a.m. to 11.30

a.m during the office hours and thus hampering office duties and such act is in violation of C.C.S Conduct Rules as salaries are paid from the State Exchequer and every citizen has the right to seek information of the public servant whether he is honest and sincere towards his duties.

27. Therefore this Commission is of the considered opinion that as the information sought was regarding the admission of a Public servant in a law college that was required by the Appellant to find out whether the timings and attendance in the Law Course is hampering the office duties and if an NOC was issued by the government to attend such course definitely falls under the domain of larger public interest and the same does not qualify as Personal Information. The Commission also finds that the PIO vide an earlier letter dated 15/02/2010 had informed the Appellant to collect the information pertaining to point 1 & 3 after making payment and did not invoke section 11 (third party information) within five days of the receipt of the RTI request which is mandatory.
28. Section 11(1) states if the information relates to or has been supplied by a third party and has been treated as confidential by the third party, and if the Public Information Officer intends to disclose any such information or record on a request made under the Act, in such case after written notice to the third party of the request, the Officer may disclose the information, if the third party agrees to such request or if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party and the PIO can certainly furnish the information in larger public interest despite the objections.
29. The Commission also finds that the PIO did not initially reject the RTI application by applying exemption of 8(1)(j) but changed his stand only after Respondent No 2, Shri. C. Radhakrishnan filed an appeal on 17/02/2010 and the FAA directed the PIO to give a hearing to Respondent No 2 and consider the objections and due to which the PIO vide letter dated 09/06/2010 subsequently rejected the information sought in the RTI application as Personal Information. The stand of the PIO in unnecessarily stretching the information sought as personal information about third party is not tenable.
30. The Commission also finds that the FAA was carried away with the decision arrived at by this Commission in Appeal 318/2008 which is different from the present appeal case. The Appellant in the present case wants the information in public interest to point out that the Respondent No 2 was attending the classes between 7.30 a.m. to 11.30 a.m during the office hours and which is hampering office duties and which is in violation of C.C.S Conduct Rules.
31. Also the FAA has erred in assuming that just because another information seeker had approached the PIO, Institute of Psychiatry and Human Behaviour where the Appellant was employed and sought copies of the same information of attendance register, etc and which were objected by the Appellant herein and the same yardstick is applicable in the

present case. **R.K Jain versus Union of India & Anr. (LNIND 2013 SC 489): Held:** 8 (1)(j) of the RTI Act states there shall be no obligation to give 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 Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.

32. The Respondent No 2 has relied on Supreme Court Judgment viz: Girish Ramchandra Deshpande Versus Central Information Commissioner & Ors. (LNIND 2012 SC 615, [2012] 8 MLJ 122 SC) to show that the information was held, to be the personal information by the Apex Court, however this Judgment relates to the copies of all memos, show cause notices and censure/punishment awarded, details of movable and immovable properties, investments, lending and borrowing from Banks and other financial institutions, details of gifts etc that finds a place in the income tax returns of the third respondent and as such this decision is not applicable to the facts of this present appeal case.

33. **DECISION/ CONCLUSION:** In view of the above discussions, the Commission comes to the conclusion that the impugned order is passed without valid and justifiable reason and is in violation of Section 8 clause (1) sub clause (j) of the Act. **Accordingly the order of the FAA dated 11/08/2012 is hereby quashed and set aside.**

34. The Appellant has stated that he is interested in receiving information only at points 1,2,5 & 6 of the RTI application. However the Advocate for the Respondent No 1 has submitted that this old information is not available. Nevertheless, the Commission once again directs the Respondent No 1, PIO, V.M Salgaonkar Law College, Miramar-Panaji to do a diligent search for the information and if the same is available to furnish it to the appellant within 30 days of the receipt of this Order (latest by 26th November 2019) by Speed Post. In the event the said information is not traceable and not available, the PIO may inform the Appellant accordingly with a copy marked to this Commission.

With these directions the Appeal case stands disposed.

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.