

**BEFORE THE GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji, Goa.**

**CORAM: Shri. Prashant S. P. Tendolkar,
State Chief Information Commissioner
Smt. Pratima K. Vernekar,
State Information Commissioner**

Appeal No.42/ SIC/2014/

Shri J.T.Shetye,
C/o Mapusa Jana Jagruti Samiti,
H.No. 35, Ward No. 11,
Khorlim , Mapusa Goa.

V/s

1. The Public Information Officer,
Shri Raju Gawas,
Mapusa Municipal Council,
Mapusa Goa.
2. The First Appellate Authority,
The Director of Municipal Administration
Colletorate Building, Gr. Floor,
Panaji Goa.

**Appeal Filed on 08/05/2014
Disposed on 23/06/2016**

O R D E R

1. By an application dated 26/10/2013 the appellant Shri J.T Shetye sought from Respondent No. 1/ Public Information Officer (PIO) of Mapusa Municipal Council information at Serial no. 1 to 7 in respect of his representation made by Jana Jagruti Samiti dated 5/09/ 2013 to Mapusa Municipal Council regarding renovation of khorlim Shantiwan Smashan Bhumi under MPLAD funds .
2. By reply dated 9/12/13 the Resp. No. 1, PIO furnished the appellant the information at points 1 to 7 .

3. Appellant since not satisfied with the Information filed the first appeal before the Director of Urban Development, being first Appellate Authority (FAA) on 30/12/13. By an order dated 4/2/2014, the Respondent No. 2, first Appellate Authority directed the PIO to suitably amend the reply with regards to point 1 and point no. 7.
4. Being not satisfied with the order to the first appellant authority dated 4/2/2014 the present appeal came to be file before this commission on 8/5/2014 . In the said appeal before this commission the Respondent has prayed for the direction to the Respondent No. 1 to furnish the correct information, for compensation, for penalty and for inquiry as against Respondent No. 1/ PIO . Appellant has also prayed to suitably advise First Appellant Authority to deal with the first appeal by ensuring the personal physical presence of PIO before first appellate authority.
5. After notifying the parties matter is listed on board and was taken for hearing.

During the hearing appellant was present in person and PIO shri Rajiv Gawas alongwith Vinay agarwadekar was present on behalf of Respondent No. 1 while the Respondent No. 2 remained absent during the proceedings.

Reply was filed by Respondent No. 1 on 28/3/2016, duly enclosing the copy of information furnished to appellant on 26/3/2014.

6. We have gone through the application under section 6 of Right to Information Act (RTI) Act dated 26/10/2013 viz-a-viz the information furnished to him by PIO on 26/3/14 after the order of first appellate authority. It has been seen the information has been provided point wise by the PIO. Regarding query No. 1 and 2 it is replied that such records are not available. Regarding query No. 3 the same is in the form of reasons, which being

not recorded is appropriately answered. So also the query No. 4 and of being beyond records is accordingly replied. The information at query Nos 5 and 7 are replied. Hence no intervention of this commission is required as far as information is concerned.

7. In his appeal the appellant for prayed that Respondent No. 1 should be severely punished by invoking section 20(1) and 20(2) of RTI Act for providing incomplete, Misleading and false information. However nothing has been placed on record by the appellant to show that the information which was provided to him on 26/3/14 was misleading and false information. The information as was furnished then and after the order of First Appellate Authority is only by way of clarification . There is no false information furnished. In other words appellant has failed to substantiate his claim for penalty by discharging burden to prove that the PIO has knowingly given misleading or false information. Mere statement that information is incomplete misleading and false does not suffice. What is required is that he has to substantiate his claim by pointing out to the commission what was misleading and what was false.
8. With regards to the Prayer of conducting inquiry, such relief does not arise as act does not confer any power of conducting inquiry by the commission in appeal. The Commission can direct inquiry only in complaint cases under section 18 of RTI Act as such granting of said prayer does not arise. As observed above no malafides are made out and hence such inquiry would be inappropriate.
9. It is seen from the order of first appellate authority that both the parties were present during hearing . In other words from the said order one could gather that the Respondent PIO was also present during the hearing before first appellate authority. The order of first appellate authority also reveals that the case was heard on merits . The appellant herein also failed to substantiate his claim that the matter was mechanically decided by the First Appellate Authority

without making proper analysis of the issues involved . Appellant has also not pointed out in what manner. Prejudice was cause to him. In fact it is observed that order is passed in favour of appellant and matter has been disposed by First Appellate Authority on merits. Hence grant of such relief is out of question.

In this above circumstances nothing survives in the present appeal as such following order is passed

Appeal is dismissed.

Notify the parties.

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

No further Appeal is provided against this order under the Right to Information Act 2005.

Proceedings stands closed.

Pronounced in open court.

Sd/-

(Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-

(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa