

GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji –Goa.
CORAM: Shri Prashant S. P. Tendolkar
Chief Information Commissioner
Smt. Pratima K. Vernekar
State Information Commissioner

Appeal No.01/SCIC/2016

Shri Jawaharlal T. Shetye,
H. No.35/A, Ward No.II,
Khorlim Mapusa.

.... Appellant

V/s

1)The First Appellate Authority,
The Chief Officer (Shir Raju Gawas),
Mapusa Municipal Council,
Mapusa –Goa.

.... Respondent No.1

2)The Public Information Officer,
The Main Engineer Grade – (Hussein Shah Muzawar),
Mapusa Municipal Council,
Mapusa-Goa.

.... Respondent No.2

Filed on : 01/01/2016
Disposed off: 27/07/2016

FACTS:

a) The appellant herein by his application, dated 21/07/2015 sought certain information from the Respondent No.2 raising 8 queries therein. The said application was not at all responded by the PIO within the stipulated time and hence the appellant filed first appeal to the respondent No.1.

b) The First Appellate Authority (FAA) by order, dated 29/10/2015 directed the PIO to submit the information that was available within 15 days from the date of said order.

c) In spite of the said order, of the FAA the PIO failed to furnish the information and hence the appellant has landed before this Commission with the present second appeal u/s 19(3) of the act.

...2/-

d) Notices were issued to the parties, pursuant to which they appeared. The PIO on 04/04/2016 filed a reply to the appeal annexing thereto letter addressed to the appellant being the information as applied by him by his said application dated 21/07/2015 filed in the section 6 of the Act. The said reply is also dated 04/04/2016.

e) Arguments were heard. The appellant filed his arguments in writing as his reply.

FINDING

a) We have perused the records and considered the arguments of the parties. The initial application dated 21/7/2015 ,filed under section 6 of the Act is dated 21/07/2016 and in warded in the office of Public Authority on the same date.

b) Under section 7 (1) the PIO was required to reply the same with the information or by giving reasons for refusal within 30 days from 21/07/2015. We do not find any such reply on record given by the PIO. A perusal of the reply filed by Respondent No.2 in this appeal also does not disclose that any such reply, with or without information was furnished to the appellant within the stipulated time. Being so it appears Primafacie that the PIO has not given a response to the request of the appellant for information within the time limit specified under the Act.

c) The appellant, on account of inaction of the PIO had to file the first appeal with the Respondent NO.1. The said appeal was filed on 27/08/2015. It is the contention of the appellant in the appeal Memo that the order in the first appeal was passed on 08/10/2015 though

in the order the date of the order is shown as 29/10/2015. We do not find anything on record to substantiate that the order was passed on 08/10/2015. The said first appeal was allowed with a direction to furnish the available information within 15 days from the date of order. Accordingly, the said order has to be complied with in furnishing the available information on or before 15/11/2015. According to the appellant such information was not furnished within that time. Even in the reply dated 04/04/2016 filed by the PIO there is no statement that they have complied with the said order of the FAA. In this situation we find prima-facie evidence that the PIO has failed to give access to the information to the appellant.

d) By way of furnishing information the PIO Respondent No.2 has filed copy of the letter, dated 04/04/2016 addressed to the appellant. The said information is dealt with by the appellant in his written reply according to him the information as furnished to his query Nos. 5 & 6 are furnished. He raises objection to the information given under query 1 to 4 and 7 & 8 hence we feel it necessary to deal only with these queries.

e) Query No.1 and 3 are in the form of certified copies of letter dated 11/02/2015. The PIO has enclosed a copy of the letter, dated 22/05/2015 as a certified copy of the letter dated 11/02/2015 and at query No.3 it is answered that in view of the furnishing of the said letter the question of certified copies of noting sheets and correspondents does not arise. It needs to be mentioned that the appellant has asked for copy of the letter dated 11/02/2015 and not 22/05/2015 as is sought. Hence said queries at 1 and 3 are required to be answered by furnishing copies of said letter dated 22/5/2015 and the noting sheets.

f) Regarding query No.(2) it is seen that the same is appropriately answered. Under said query the appellant has sought for an action taken report which the PIO has answered that no action is taken. Hence the said query is answered.

g) Regarding query No.4 & 8 the appellant wanted the certified copy of the comments related to the same matter under section 293 submitted by the Chief officer to DMA and also the progress report on the application dated 30/01/2015 pertaining to one Mr. Milton Rodrigues respectively. The answer given is "not available". we are in agreement with the appellate that such answer is vague. The PIO is required firstly to furnish the copy with the comments if any by the Chief Officer. In case the Chief Officer has not put any comments than he is required to inform that no comments are put.

Similarly under query (8) he is required to inform the progress report if any and if not to inform accordingly. He cannot escape the liability on the vague answer of "not available"

h) Regarding query No.7 the appellant has requested for certified copies of ownership documents of house No.109. As per the copy enclosed in answer to this query it is found that no ownership documents are finished and what is enclosed is the copy of demand register of assessment and taxes. Thus the said query No.7 has remained to be answered.

i) Considering the above circumstances we hold that the PIO has failed to furnish the information as sought by the appellant to his query No. 1,3, 4 ,7 & 8 and that rest of the queries are answered. We therefore dispose the present appeal with the following:

...5/-

O R D E R

PIO is directed to furnish to the appellant the information to query Nos.1, 3 ,4 , 7 & 8 of appellant's application, dated 21/07/2015 filed under section 6 of the RTI Act within 15 days from the date of this order.

PIO to show cause why action, as deemed fit, as contemplated under section 20(1) and/or 20(2) of The Right to Information Act, should not be initiated against him. Reply to be filed by the PIO on 19/09/2016 at 10.30 am.

Copy of the order to be furnished to the parties free of cost.

Pronounced in the open proceedings.

Sd/-
(Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa

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