

**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.20/SCIC/2016**

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

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Appellant

**V/s**

1)The First Appellate Authority,  
The Chief Office (Shri Raju Gawas)  
Mapusa Municipal Council, Mapusa.

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Respondent No.1

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

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Respondent No.2

**Filed on: 24/02/2016**

**Disposed on: 12/07/2016**

**FACTS:**

- a) The appellant by his application, dated 05/11/2015, filed under section 6 of the Right to Information Act 2005 (Act for short) sought certain information from the PIO i.e. the Respondent No. 2 herein regarding minuits of meetings dated 15/09/2015 as also other information. The PIO failed to reply the same or furnish the information within the stipulated period of 30 days.
- b) The appellant preferred first appeal on 10/12/2015 before the Respondent No.1 but he failed to pass any order within the period of 45 days as prescribed under the Act and hence the appellant has approached this Commission by way of second appeal under section 19(2) of the Act.
- c) Notice of this appeal was served on the Respondents pursuant to which the PIO appeared, and filed this reply on 04/04/2016 annexing thereto a letter addressed to the appellant and dated 04/04/2016 and furnishing therein the information in tabular form. As per the said reply, the PIO has submitted that besides said information there is no further information available in the said office.

...2/-

- d) The copy of the said reply was furnished to the appellant and he was directed to verify the same and report whether the entire information as sought by him is received and also to get the list of missing information if any.
- e) On the subsequent date appellant filed a written reply and the matter was taken for argument on 12/05/2016.
- f) On the said date the matter was heard and the appellant was asked whether he has received information as sought by way of reply of the PIO dated 04/04/2016 and he submitted that the same is received, except information at query No.3, 4,6,7, 10 to 13, 16, 16, 17, 18 & 21 to 24.
- g) In his argument the appellant submitted that though the information is furnished now, there is Prima facie case against Respondent No.2 as though the application was filed on 05/11/2015, the reply was given only on 04/04/2015 after a delay of 120 days. According to him the Respondent No. 2 is liable for penalty under section 20(1) and (2) for not furnishing the information. According to him the PIO has not given any reason for not furnishing the information within time. He further submitted that the PIO is liable for action to be initiated pursuant to the order of this Commission and prayed that a PIO be directed to furnish the entire information and also for action against the PIO as per the provisions of the act and the powers vested with the Commission under the Act.
- h) The PIO in his arguments submitted that pursuant to the notice of the appeal, the entire information has been furnished and nothing survives now. He submitted that the appellant is filing several application on several occasion only for causing harassment. The PIO further submitted that having replied all the queries the present appeal does not survive and should be disposed off accordingly.

2) **FINDINGS:**

- a) We have perused the records, including the pleadings. We have also considered the submissions of the parties. Considering the case in hand, the two points would require our determination namely: ...3/-

- 1) Whether the PIO has furnished the entire information as sought.
  - 2) Whether any proceedings as contemplated under section 20(1) and 20(2) are attracted herein.
- b) On going through the reply filed by the PIO, which contains the information in tabular form, it is found that the information to queries (3) (4) (7), (10), (12), (13), (18) and (23) are answered either as not traceable in office records or not available. These records are not old but recent ones. Hence, the answers given does not appear to be evasive. In case the records are not traceable the immediate gesture would be to file FIR against missing files. In the absence of such FIR it is beyond our prudence to accept that files are not traceable.
- c) Besides said queries the appellant also have grievance for not furnishing information at queries Nos. (6) (11) (16), (17), (21), (22) and (24) as having not replied. If one peruses these queries and the reply, it reveals that Annexure 'J' does not cover the information as sought under No.6. there is no annexure 'J' to the reply. Hence it is required to be answered.

Regarding query (11) and (16) we find that the same are answered. The query No.(17), which is in form of annexure 'F', is not answered appropriately. So also query No.(21), which is answered in the form of Annexure 'H', does not contain the entire information as sought. So also the query at serial No. (22) is evasively answered as voluminous. The query at No. 24 is appropriately answered by PIO.

- d) Regarding the cause for delay in furnishing the information after filing of this appeal, we find that there is no reason given by the PIO for not furnishing the information within the time stipulated under the Act and for waiting till filling of this second appeal. The application was filed on 05/11/2015 and the same should have been furnished if otherwise not exempted, on or before 06/12/2015. The PIO has furnished the information only on 04/04/2016 and hence, in the absence of any explanation we find that there is a delay.

e) In the aforesaid circumstances we conclude that the appellant is entitled to receive the information to query Nos. 3, 4, 6, 7, 10, 12, 13, 17, 18, 21, 22, 23 and 24 of his application dated 05/11/2015. We further hold that prima facie the PIO has failed to furnish the information within time and consequently the appellant has not been given response to his request for information within the time specified.

In the circumstances we proceed to dispose the present appeal with the following:

**ORDER**

The appeal is partly allowed. The PIO is directed to furnish information to query Nos. 3, 4, 6, 7, 10, 12, 13, 17, 18, 21, 22, 23 and 24 of the appellants application dated 05/11/2015, within **Ten days** from the date of receipt of this order. In case the records/files pertaining to said information is not available or not traceable, the PIO shall lodge FIR with the local Police Station and report compliance thereof to this Commission within fifteen days from date of receipt of this order.

Issue notice to the PIO to show cause as to why proceeding under section 20(1) and/or 20(2) should not be initiated against him for violating the provisions of section 18 (1) (b) and (c) of the Right to Information Act 2005, returnable on 29/08/2016 at 10.30 am.

Parties to be intimated.

Pronounced in the open proceedings.

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

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

