

**BEFORE THE GOA STATE INFORMATION COMMISSION**  
**Seventh Floor, Kamat Towers, Patto, Panaji, Goa.**  
**CORAM: Smt. Pratima K. Vernekar,**  
**State Information Commissioner**

**Appeal No. 84/ SIC/2014**

Smt. Kamal D'Souza,  
H.No.146, Ward No. 9,  
Ansabhat, Mapusa,  
Bardez Goa

.....Appellant

**V/s.**

1. The First Appellate Authority and  
Director of Urban Development,  
Colletorate Building, Gr. Floor,  
Panaji Goa. ..... Respondent No.1
2. The Public Information Officer,  
Mapusa Municipal Council,  
Mapusa Goa. ..... Respondent No.2
3. The Assistant Public Information Officer,  
Mapusa Municipal Council,  
Mapusa Goa. ..... Respondent No.3

**Appeal Filed on .31/07/14**  
**Disposed on. 20/06/16**

**O R D E R**

**FACTS:-**

1. Brief facts of the case are that by an application dated 24/2/2014 appellant, Mrs. Kamal D' Souza, filed u/s 6 of the Right to Information Act (RTI Act), had sought various information pertaining to all the licenses issued by the Mapusa Municipal council to all the kiosks /Gadas in the property belonging to Comunidades of Mapusa, khorlim and Cuchelim for the last two decades renewed till date and also the files and all records of licenses issued by the Mapusa Municipal council to kiosks / Gadas in the property belonging to

comunidade of Mapusa, under chalta No.3 of P.T. Sheet No. 96 city survey of Mapusa.

2. By letter bearing No. MMC/ENGG/RTI/2330/2014 dated 24/3/2014 the PIO duly replied to her said application. Vide said letter PIO had requested the appellant to make a payment of fees of Rs. 2086/- and then to collect the certified copies of the documents.
3. Being not satisfied with the reply of PIO the appellant then filed appeal before the first appellate Authority on 10/4/2014. The First Appellate authority vide order dated 16/5/2014 dismissed the appeal by imposing the cost of Rs. 50/- on the appellant to be paid to the Respondent.
4. Being aggrieved by the order of the First Appellate Authority the present appeal came to be filed before this commission on 31/7/2014 Praying for inquiry, for setting aside the order of First Appellate Authority and for direction to PIO to provide assistant to enable access to the information by providing her inspection of the concerned document under section 7(4) of at RTI Act 2005.
5. After notifying the parties the matter was listed on the board and was taken up for hearing. Reply came to be filed by Respondent 2, PIO on 28/3/2016 alongwith annexures.

#### CONTENTIONS OF PARTIES:-

6. During the hearing Appellant was represented by Shri J. T. Shetye. Whereas Respondent No 2 PIO was represented by Shri Vinay Agarwadekar, APIO. The APIO submitted that his reply be treated as arguments on behalf of PIO. On 19/05/2016, the Appellant filed her reply in counter and copy thereof was furnished to the PIO, Shri Raju Gawas.
7. It is the case of the Appellant in brief as per the appeal memo and the reply, dated 19/05/2016 that though the reply of the Respondent PIO is, dated 24/3/2014 they have received the same on 26/3/2014 and as

such the reply was given after the stipulated period of 30 days . Further it is the case of appellant that the reply of PIO did not

show any calculation as how the amount of Rs. 2086/- came to be calculated and as to how many pages of documents Respondent 2 was supposed to furnish by charging said amount. The Appellant has also challenged the locus standie of APIO in furnishing the information on behalf of PIO and also has a grievance against the First Appellate Authority in imposing cost of Rs. 50/- while disposing the first appeal.

8. On the other hand it is the contention of PIO that, in reply to the appellant's application, she was called to collect certified copies of documents on payment of the fees of Rs. 2086/- . The Appellant failed to collect the same and instead appealed to First Appellate Authority (FAA). The Appeal was dismissed with cost inspite of which the Appellant failed to collect information. According to PIO this Appeal is a waste of time and prayed for dismissal of the Appeal.

#### FINDINGS:-

9. We have perused the records and considered the rival contentions of the Parties. The admitted facts are that the application u/s 6 dated 24/02/2014 was replied on 24/03/2014, volunteering to furnish information subject to payment of fees of Rs. 2086/- . Hence there was no denial. The Appellant has objection for charge of fees. We are unable to agree with this contention. This gesture of the PIO in demanding fees is in tune with section 7(3)(a) of The RTI Act. The only thing that we found missing is the calculation part to show as to how PIO arrived at said figure of 2086/-
10. The Appellant on receiving the said letter inspite of collecting the information or challenging the levy of fees filed Appeal u/s 19 (1) of The RTI Act on the contention that the APIO has committed mockery of the RTI Act.

It needs mention that the information was to be furnished to the appellant on payment of fees and not before that. In other words the

Appellant had preferred the first appeal without scrutiny of the information as it was not received by him then. The Appeal thus was without

any cause of action. Hence we find no fault in the order of FAA. The proper course for Appellant would have been to receive the information on payment of fees and after scrutinizing it if aggrieved to file appeal, if it was wrong, insufficient, false etc. The Appellant has shown unnecessary haste in preferring the first appeal

11. Now coming to the grievance of Appellant regarding imposition of cost of Rs. 50/- by the FAA, the Commission observes that the mandate of the RTI Act is to provide the information and said act is people friendly Act which has come in force to promote transparency and accountability in working of public authority. As rightly submitted by Appellant there is no provision in RTI Act authorizing FAA to penalize the applicant and impose fine or the cost on the appellant for not paying the fees or for not collecting the information. Hence Order of imposition of cost of Rs. 50 /- on the Appellant by the FAA cannot be subscribed.

12. It is the third contention of Appellant that though the reply of PIO is dated 24/03/2014, the same was received on 26/03/2014 hence delay has occurred in intimating. It needs mention that the application u/s 6 was filed on 24/02/2014. Hence the period of thirty days starts from 25/02/2014 and expires on 25/03/2014. On perusal of records it is found that the said letter, dated 24/03/2014 is sent by Registered A. D. Hence the delay of two days is the postal delay which cannot be attributed to PIO. This claim of Appellant appears to be technical and considering the above is not sustainable.

13. The Appellant has objection that furnishing of the information by APIO instead of PIO, is contrary to the provision of the Act and hence cannot be held as information under the Act.

We are afraid to admit this contention. Intent of the Act is providing transparency in the functioning of the Public Authority and in

such attempt of seeking transparency, the citizen has been conferred rights to collect the required information from such Authorities. PIO & APIO are designated for the purpose of imparting information on behalf of such Public Authorities. The appointment of APIO's under section 5(2) of Act is for the purpose of granting assistance to PIO who are entitled to receive such assistance u/s 5(4) of the RTI Act. In the circumstances the contention of Appellant that APIO cannot step in the shoes of PIO has no substance. It is to be borne in mind that the information is to be imparted by Public Authority and PIO and APIO are appointed for furnishing such information. The engagement and appointment of such Officers is required to be done as is felt necessary for the authority and such appointments are beyond the domain of information seeker. Any thing done by the PIO or APIO is on behalf of Public Authority though the ultimate responsibility lies on PIO.

14. Considering the above submissions and the law on the subject and considering the circumstances involved herein, we are of the view the Appellant has not made out any case for grant of relief as prayed for except in non furnishing of calculation by PIO and imposition of cost by FAA. Hence the PIO is required to furnish the calculation in arriving at the cost of Rs. 2086/- and that imposition of cost of Rs. 50/- by FAA is required to be set aside being beyond the powers granted to it under the Act.

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

### **ORDER**

- i) PIO is directed to give break up of calculation regarding the cost of fees Rs. 2086/- demanded by him for providing said information .

- ii) PIO is further directed to provide the information sought by appellant in her application, dated 24/2/ 2014 within five days from the date of payment of said fees to the PIO.
- iii) The order dated 16/5/2014 passed by the First Appellate Authority ordering Appellant to pay cost of Rs. 50/- is hereby set aside.

Appeal disposed off accordingly Proceeding closed.

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.

Pronounced in open court.

Sd/-

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

Sd/-

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