

# GOA STATE INFORMATION COMMISSION

Seventh Floor, Kamat Towers, Patto, Panaji, Goa.

Appeal No 69/2017

Octaviano Pires,  
H.No. 229 Porbawadddo,  
Calangute, Bardez-Goa  
V/s

...Appellant

1) **The Public Information Officer (PIO),**  
North Goa Planning Development Authority,  
Archdiocese Bldg. 1<sup>st</sup> Floor, Mala, Link Road,  
Panaji – Goa.

2) **The First Appellate Authority (FAA),**  
North Goa Planning Development Authority,  
Archdiocese Bld. 1<sup>st</sup> Floor, Mala, Link Road,  
Panaji – Goa.

... Respondents

## CORAM:

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Filed on: 2/06/2017**

**Decided on: 12/10/2017**

## ORDER

1. The Facts in brief which arises in the present appeal are that the appellant Shri Octavia Pires by his application dated 23/02/17 filed u/s 6 (1) of Right to Information Act, 2005, sought certain information on 2 points as stated therein in the said application pertaining to his complaint dated 6/01/2017 which was filed against Mario D'Souza vide inward No. 1522. He had sought the following information:-
  - a) what action you have taken in my complaint dated 6/01/2017 against Mr. Mario D'Souza if not the reasons .

- b) What document Mr. Mario D'souza had submitted while asking permission of old house No. 18 and was basis the permission was granted to Mr. Mario D'Soiza.
2. In the said application filed u/s 6(1) the appellant have also stated that he want information urgently in order to take legal opinion.
  3. The said application of the appellant was responded by the PIO on 9/03/2017.
  4. Being not satisfied with the reply furnished to the him by Respondent No. 1 PIO. The appellant then approached the Respondent No. 2 FAA on 31/3/17. The said appeal was inwards in the Office of Respondent No. 2 by inward No. 8 on 04/4/2017.
  5. According to the appellant the Respondent No. 2 first appellate authority did not passed any order nor issued him notice regarding the hearing nor disposed the first appeal within stipulated time.
  6. Being aggrieved by the action of both the Respondents, the appellant approached this Commission on 2/6/2017 by way of second appeal filed under section 19(3) of RTI Act, 2005 with a prayer seeking direction to Respondent No. 1 to provide him complete information as sought by him by his application dated 23/2/2017 and for invoking penal provisions including compensation.

7. In pursuant to the notice of this Commission , the appellant was present alongwith Advocate Dinesh Naik.
8. The information came to be submitted to the appellant free of cost on 6/09/2017
9. Reply filed by Respondent No. 1 PIO on 15/09/2017 interalia submitting that information came to be furnished to appellant free of cost on 6/09/2017 before this Commission.
10. No reply came to be filed by Respondent No. 2 FAA nor bothered to appear before this Commission despite of due service of notice. After filing the reply the Respondent no. 1 PIO did not bother to appear as such ample opportunity was given to him to substantiate his case. Since Respondent No. 1 PIO failed to appear on the subsequent dates of hearing, the arguments of the appellant were heard.
11. The Advocate for the appellant submitted that the Respondent No. 1 PIO has furnished the information at a belated stage when the matter was pending before this Commission on 6/09/2017. The said information was available with Respondent No. 1 PIO but Respondent No. 1 deliberately and malafidely denied the information to the appellant. The appellant was constrained to file first appeal but in first appeal also the information was not furnished to appellant. It was further submitted that the appellant is senior citizen and was constrained to file 2<sup>nd</sup> appeal before this Commission. Since Respondent No.1 and Respondent 2 has failed to furnish the required

information. He further submitted that the Respondent No. 1 PIO has failed to furnish the information within the prescribed time limit and PIO admits in his reply dated 15/09/2017. It was further submitted that the Act of Respondent No. 1 and Respondent No. 2 has cause injustice to the appellant for not furnishing the required information and therefore the Respondent No. 1 PIO should be punished as prescribed under section 20 of the RTI Act 2005. In support of the submission the advocate for the appellant relied upon the judgment of the Hon'ble Bombay High Court at Goa Bench reported in a) AIR 2012 Bombay page no. 56, b) AIR 2013 Calcutta 128 and c) 2016 (5) All MR(JOURNAL)64 (Punjab and Haryana High Court).

12. I have scrutinize available in the file including the replies of the PIO.
13. Since the Advocate for the appellant in the course of proceeding submitted that appellant is satisfied with the information furnished to him by the PIO on 6/09/2017, as such the prayer (a) becomes redundant and no intervention of this Commission is required.
14. The Advocate for the appellant strongly and velemently pressed for prayer (b) and (c) for refusing the information to him at initial stages.
15. On verification of the records it is seen that the reply given by PIO on 9/03/2017 is given in vary casual manner without proper application of mind. The part I of the point no. 2 was not answered at all by the PIO which

according to me could have been given at initial stage as the appellant had sought for certain documents. The PIO has persistently failed to provide information to the information seeker who happens to be senior citizen till the notice was issued by this Commission.

16. If the correct and timely information was provided to the Appellant, it would have saved valuable time and the hardship caused to him in pursuing the said Appeal before the different Authorities. It is quite obvious that the Appellant has suffered lot of harassment and mental torture and agony in seeking information under the RTI Act which is denied to him till this date. If the PIO had given prompt and correct information such harassment and detriment could have been avoided.
17. As no reply was filed by Respondent no. 2 FAA and as failed to appear before the commission, no clarification could be obtained from Respondent No. 2 FAA as to why they failed to dispose the first appeal within stipulated time and what was the reason for withholding the same.
18. This Commission would like to refer Section 19(1) of the Act which states "An Appeal under sub-section (7) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing."

19. The displeasure is hereby expressed by this Commission for the conduct and attitude shown by the Respondent No. 2/FAA. It has been observed in various cases that FAA either does not pass any Orders or such Orders are passed after the stipulated time, as such great inconvenience and hardship, mental agony is thereby caused to the Appellant. The commission observes that Respondent No. 2 FAA miserably failed to perform their duties as contemplated under the Right to Information Act and hence warns Respondent No. 2/First appellate authority that such irresponsible behavior would not be tolerated hence forth and incase detected, would be reported to the authorities, recommending penal action.
20. In the present case the act on the part of both the Respondents is condemnable as the material on record shows that the both the Respondents did not take diligent steps in discharging their responsibility under the RTI Act.
21. Apparently the record shows that the initially incomplete information was furnished to appellant. The part of the information at point No. 2 could have been dispensed by the PIO. The PIO could have furnished the documents which Mr. Mario D' Souza has submitted while asking permission for renovation of house No. 18 at the initial stage itself. There is an delay of approximately of about 6 months in furnishing the said information. Prima facie case have been made out by the appellant that part of the information at point (b) which could have been furnished have been denied to him. However the

Respondent No. 1 PIO has to be given opportunity to explain the same.

22. Inview of above the following order is passed:-

ORDER

1. Issue showcause notice to Public Information Officer u/s 20(1) of the RTI Act for providing incomplete information by his reply dated 09/03/2017 and for delaying the information.
2. Matter fixed for reply of Respondent PIO on 6/11/2017 at 10. 30. a.m.

Proceeding stands closed.

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 under the Right to Information Act 2005.

Sd/-

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

KK/-

