

**GOA STATE INFORMATION COMMISSION**  
Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Appeal 96/SIC/2014

Mrs. Marilyn Afonso,

Block C , Cedmar Apartments,

Panaji-Goa

.....Appellant

V/s

1. The Public Information Officer,  
O/o. P.C.C.F.,  
Department of Forests,  
Panaji-Goa

2. First Appellate Authority,  
Conservator of Forests,  
O/o. P.C.C.F.,  
Department of Forests,  
Panaji

.....Respondent

**Appeal filed on: 04/09/2014**

**Decided on: 20/03/2017**

**ORDER**

1. This order deals with maintainability of the this appeal the facts that lead to the present appeal are as under:-
2. The appellant Ms. Marilin Afonso filed application dated 26/06/2014 before the Respondent No. 1 Public Information Officer (PIO), Principal Chief Conservator of Forest, Panjim – Goa by enclosing fees of Rs. 10
3. The Appellant received reply from the Respondent No. 1 on 30/06/2014 thereby informing him that the information was sought by her has been treated as 3<sup>rd</sup> party information as per clause 8(d) and 11(a) of Right To Information Act (RTI Act).

4. Being aggrieved by the said reply the Appellant preferred 1<sup>st</sup> appeal before the Conservator of Forest, O/o. PCCF , Department of Forests, Panaji-Goa who is the Respondent No. 2 herein on 3/07/2014. And the Respondent No. 2, First Appellate Authority (FAA) vide their letter dated 4/08/2014 informed the Appellant that his appeal is not admitted as annexure mentioned in the appeal were not enclosed and the Respondent No. 1, PIO have been not cited properly.
5. Being aggrieved by the action of both the Respondents the present appeal come to be filed before this Commission under section 19(3) of RTI Act on 4/09/2014 with the direction as against both the Respondents for providing information as sought by her vide her application.
6. Notice was given to parties, pursuant to which they appear and reply filed by Respondent No. 1 with inward section vide entry No. 362 on 8.03.2016 which was placed in the file. The said reply was filed in very casual manner just for mere sake of filing without enclosing the copies of annexure I to XII to the said reply as relied by them. Thereafter both the Respondent did not bother to appear before this Commission.
7. During one of the hearing the representative of Respondent Shri N. C. Saravana had assured this Commission that he will verify whether the inquiry in respect of all the complaint as mentioned in the RTI application have been concluded and then status report, in respect of the same would be submitted before this Commission. However Respondent PIO failed to do so.
8. There after both the parties remained absent. As such after awarding the opportunity to argue the matter. Commission decided to dispose the matter based on available record in the file.

9. It is seen from the records that the first appeal was not admitted on technical grounds and was not heard and was not disposed on merits. The Office objection of the FAA could have been rectified and the appeal could have been taken for hearing.
10. The appellant in the present appeal has challenged the order of PIO passed under section 7(1) of RTI Act, on the grounds mentioned in the present appeal memo.
11. The provision of the RTI Act under section 19 (1) confers power to aggrieved person to prefer an appeal to such officer who is senior in rank to PIO. Such appeal can be filed by aggrieved party against the decision of the PIO after expiry of 30 days if no information is furnished by the PIO.

Thus from the above provisions, the order of PIO can be challenged only by first appeal before FAA.

12. The Jurisdiction of the Commission as provided under the Right to Information Act under section 19(3) is as under
  - “19(1) .....
  - (2).....
  - (3) Second appeal against the decision under sub section (1) shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission.
  - Provided.....”

Thus the role of this Commission, as prescribed under section 19(3) is by way of second appeal and that too only against the decision of FAA under sub section (1). In other words a second appeal to the Commission would lie only if FAA passes an order in respect of the earlier order passed by the PIO. Thereafter the role of the Commission would come in play only after issue is decided by a first appeal before FAA.

13. In the present appeal the appellant, claim to be aggrieved by the conduct of the PIO for not finishing the information on his application under section 6 of the Act. Hence remedy is by way of first appeal under section 19(1) of the RTI Act. It is only after exhausting the remedy of the first appeal that the appellant can approach this Commission by way of second appeal under section 19(3) of RTI Act. The Act does not provide any appeal against the action of PIO directly to the Commission either by way of concurrent powers or by way of first appeal. In the circumstances, to our mind the present appeal is pre-matured and the same cannot be entertained by this Commission
14. In the circumstances I hold that the present appeal filed by the Appellant is not maintainable. However I am of the opinion that ends of justice would meet in case appropriate directions are issued to the first appellate authority to hear and dispose the same on merits after rectifying error and objections. In the circumstance I dispose the appeal with following:-

#### Order

The Respondent No. 2 FAA is directed to take up the appeal filed by the Appellant on 30/07/2014. Appellant and Respondent No. 1 to appear before Respondent No. 2 at 21/04/2017 at 10.30. a.m. and Respondent No. 2 FAA shall dispose off the appeal as expeditiously as possible but in any case on or before 21/05/2017. The appellant if aggrieved by the order of FAA is hereby given liberty to approach this Commission by way of 2<sup>nd</sup> appeal.

Appeal disposed accordingly.

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