GOA STATE INFORMATION COMMISSION

'Kamat Towers' Seventh Floor, Patto, Panaji – Goa

Shri Prashant S.P. Tendolkar, State Chief Information Commissioner,

Appeal No.71/SCIC/2016

Shri Jawaharlal T. Shetye,
H. No.35/A, Ward No.11,
Khorlim Mapusa –Goa. ….. Appellant

V/s

1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa –Goa.
2) The First Appellate Authority,
The Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa. ….. Respondents.

Dated:26/07/2017

O R D E R

1) This order disposes the prayer of the appellant for dropping of the proceedings. Appellant herein, in his written submissions dated 12/06/2017 has prayed for dropping of this proceedings with a liberty to file fresh second appeal u/s 19(3) or complaint u/s 18 of The Right to Information Act.(Act)

2) The respondent PIO has endorsed his say on the said application through Mrs. M. Salkar. Vide her say the she has submitted that PIO has no objection to drop the proceedings but has objected for grant of liberty to file second appeal or complaint, as there is no such prayer in the appeal for remand or for issuing fresh notice by FAA to rehear the first appeal.

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3) The appellant did not remain present for hearing continuously and hence his oral arguments on the objection of the respondent could not be heard. I have perused the application and the records. The appellant has approached this Commission in this second appeal with a grievance that though he has filed first appeal, the FAA has not disposed the same within the statutory period of 45 days. By this appeal he has prayed for an order to furnish the information as also for other relief of penalty in terms of section 20(1) and 20(2) of the Act. Thus the present second appeal is filed by appellant considering the non disposal of the first appeal within time, as deemed rejection, and has sought comprehensive relief not only against PIO but also against the FAA.

4) The appellant for substantiating his application has relied upon the order passed by the State Information Commissioner, in several other second appeals. However there are no records to show as to under what circumstances said orders were passed. Any such orders therefore cannot be a precedent for this appeal. Hence this appeal has to be dealt with as per the plea and the law vis a vis the relief claimed.

5) The appellant has admittedly approached this Commission after filing first appeal. Hence there is no question of filing of fresh first appeal. Participation of the parties in the appeal is the choice of the parties therein. The appellant has approached with this second appeal either on the assumption that the first appeal is deemed rejected or by abandoning the hearing before FAA. In any case, whether appellant can participate in the first appeal or file fresh first appeal, will have to be considered, by the First Appellate Authority, if the appellant approaches it. This Commission therefore cannot grant any blanket liberty which

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would result in interference with the powers and functions of first appellate authority.

6) Ever otherwise from the perspective of the opponent, granting of such blanket liberty, may result in taking away a valuable right of defence if has arisen in favour of the respondent. Granting of such liberty may also result in permitting grant of relief, which otherwise would be beyond the act or the Authorities under the act. Each matter has therefore to be dealt with independently.

7) Considering the above circumstances, the prayer of the appellant as prayed, cannot be granted to. Though the appellant cannot be forced to proceed with this appeal against his wishes, a blanket liberty cannot be granted to him as prayed. However the liberty as prayed can be availed by him if available under the law.

In the circumstances the prayer of the appellant is partly allowed. The proceedings are dropped.

The rights of the appellant to file any appeals/complaints against orders passed by any authority under the act, shall be subject to and shall be as governed by the provision of the Act.

Notify parties.

Pronounced in the open proceeding.

Proceedings closed.

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