

**GOA STATE INFORMATION COMMISSION**

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

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

**Appeal No. 92/SCIC/2016**

Shri Vinod V. Kundaiker,  
H. NO.188, Behind Hema Apartment,  
Margao Borda-Goa. .... Appellant

V/s

- 1) The State Public Information Officer,  
Member Secretary,  
SGPDA, Osia Complex, 4<sup>th</sup> floor,  
Margao-Goa.
- 2) The First Appellate Authority,  
The Chairman,  
SGPDA, Osia Complex, 4<sup>th</sup> floor,  
Margao-Goa. .... Respondents.

**Filed on :17/5/2016**  
**Disposed on:3/8/2017**

**1) FACTS:**

a) The appellant herein by his application, dated 04/2/2016 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under five points therein.

b) The said application was replied on 03/3/2016, intimating the appellant that the matter was placed before Authority in the meeting held on 25/01/2016 and adjourned to 01/02/2016 of which minuits are not finalized as such information cannot be furnished. However according to appellant the information as sought was denied and hence the appellant filed first appeal to the respondent No.2 on 14/3/2016. Being the First Appellate Authority (FAA).

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c) FAA by order dated 26/04/2016 held that nothing survives in the appeal and that appellant may seek information regarding the resolutions taken at its meeting held on 01/02/2016. The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act

d) Notices were issued to the parties, pursuant to which the PIO alongwith the advocate appeared. Appellant failed to remain present inspite of notice. The PIO on 25/5/2017 filed affidavit in reply to the appeal. On 19/6/17 the PIO filed a memo alongwith copy of the resolution passed by SGPDA on 25/01/2016 and 01/02/2016.

e) The appellant remained absent all through out the proceedings inspite of notice and several opportunities granted to him. In view of the continuous absence of appellant submissions of the PIO were heard. The advocate for PIO submitted that her written reply be treated as her submissions in the appeal.

**2) FINDINGS:**

a) I have perused the records and also considered the submissions. By his application dated 04/02/2016, the appellant has sought the information in the nature of certified copy of action taken for last 3 months on the letter dated 03/11/2015 received from the Sr. Town Planner, Town & Country Planning Department. The information was sought on 5 points as contained in the application. In reply u/s 7(1) it was informed to appellant that the information was placed before the Authority in the meeting held on 25/01/2016 which was adjourned to 01/02/2016 and minuits of which are not finalized.

Considering the reply, one fails to understand as to under what law the information has to be placed before any authority.

The only thing that is open to PIO is either furnish the information which exist or inform accordingly, if does not exist. The PIO has not replied the said application as per section 7(1) of the Act.

b) Be that as it may, even after filing of first appeal, the PIO, on 15./04/2016 writes to appellant that the information is in the nature of research work and that it would disproportionately divert the resources of the Authority.

I am unable to understand under which powers or authority the said second letter is sent by PIO, during pendency of first appeal and that too contrary to his first reply dated 03/03/2016. The PIO has also not clarified as to how the said information became the subject of research and would divert the resources. The conduct and approach of PIO thus seems to be totally strange to the Right to Information Act.

c) While dealing with the first appeal the FAA has deviated from the application u/s 6(1). The FAA was required to rule whether the information in terms of application dated 04/02/2016 has to be furnished or not. The FAA has ruled as to what the appellant was required to do by advising him to seek information pertaining to minuits of meeting dated 01/02/2016. The said order is therefore beyond the scope of the powers granted to FAA.

d) In the course of hearing by giving the progress of the same PIO, has submitted vide his affidavit in reply that the complaint was placed before Authority in the meeting held on 25/01/2016 and adjourned to 01/02/2016. According to him minuits of the said meeting were confirmed only on 11/4/2016 and hence FAA has directed appellant to obtain information regarding resolutions of meeting held on 01/02/2016 and confirmed on 11/04/2016. I find this justification of PIO as totally unjust. The appellant has no interest in resolution. He required the progress report and

copies of all documents created during such progress. If the resolution of Authority was part of the progress, PIO was liable to furnish the same. If such records were not available within thirty days, he was required to inform the appellant accordingly.

In the course of proceedings the PIO has filed on record the copy of resolution, purportedly passed on the subject. I do not find said resolutions to be certified by PIO. In any case according to him it is the progress of the proceedings as on that date.

e) Considering the above facts, I find that the appellant is entitled to have the information as sought for by him vide his said application, dated 04/02/2016. Considering the same, I am unable to subscribe to the order passed by FAA, same is liable to be set aside. In the above circumstances I dispose the above appeal with the following.

### **ORDER**

The appeal is partly allowed. The order dated 26/04/2016, passed by the First Appellate Authority in First Appeal No.64/2016, is set aside. PIO is hereby directed to furnish to the appellant the para wise information to the appellants application dated 04/02/2016 as it exist with the authority. Within fifteen days from the date of receipt of this order by him, free of cost.

Rest of the prayers of the appellant are dismissed.

Proceedings closed.

Parties be notified.

Pronounced in open Proceedings.

Sd/-

**(Mr. Prashant S. Prabhu Tendolkar)**

State Chief Information Commissioner

Goa State Information Commission

Panaji-Goa

