

GOA STATE INFORMATION COMMISSION

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

Appeal No. 65/SIC/2015

Mr. Joao Rosario F.R.Pereira,
r/o H.No. 44B, St. Lawrence(Agassaim),
Mercurim, Tiswadi Goa.

..... Appellant

V/s.

1. Public Information Officer,
Mr. Rohidas A. Pereira,
The Secretary,
Village Panchayat St.Lawrence,
Agassaim Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 18/06/2015

Decided on: 12/07/2017

ORDER

1. In brief facts which arises in the present appeal are ,that the appellant Shri Joao Rosaria F.R. Pereira by his application dated 3/11/14 filed u/s 6(1) of RTI Act sought certified copy of the application for NOC applied to the Town Planner (TCP) by then secretary Mr. Mahesh Naik dated 10/9/2012 with reference No. V.P./SLA/2012-13/833 from the PIO , Agassim Panchayat office Tiswadi, Goa. The Appellant also attached the said application dated 10/9/2012 addressed to town Planner by Secretary Mahesh Naik for reference .
2. The said application was responded by the Respondent No. 1PIO on 1/12/2014, interalia informing the appellant that the said letter was not available in the records, PIO showed his inability to furnish the certified copy of NOC dated 10/9/12 to the appellant . It was further informed to Appellant vide said letter that entry is reflected in the outward register of village Panchayat of having sent the said letter to the Town and Country Planning Department, Panajim Goa Under Panchayat reference No. V.P./SLA/2012-13/833 dated 10/9/2012.

3. Being not satisfied with the reply furnished to him by the respondent No. 1 PIO, the appellant preferred first appeal before the Block development officer, Panjim, Goa on 21/4/15, and the First appellate authority by an order dated 12/2/2015 allowed the appeal of the appellant and thereby directed the Respondent PIO to furnish the information within 15 days after through attempt to search and locate the information.
4. It is the case of the appellant that the Respondent failed to furnish the information despite of the order of the First appellate authority as such he again approached the first appellate authority for initiating the action against the respondent PIO, and the FAA by an order dated 1/6/2015 dismissed his said prayer.
5. The present appeal came to be filed by the appellant on 18/6/2015 u/s 19(3) of the act. The appellant had challenged the order passed by the FAA on several grounds as raised in the memo of appeal.
6. After duly notifying the parties, the matter was taken up for hearing. The appellants appeared in person. Despite of due service of notice the Respondent did not appear nor filed his reply.
7. Arguments were advanced by the appellant. It is the case of the appellant that the said letter is created by the Respondent themselves as such it should be in their possession. It is his further contention that Respondent being a public authority and being custodian of record is under obligation to provide information and issue the copy of the document created by them.
8. I have scrutinize the available records in the file so also the submission made by the appellants.
9. It is the case of respondent No. 1 PIO from the inception that the copy of the said application dated 10/9/12 is not available in their records and the original letter have been forwarded to the Town and Country planning department, Panajim, Goa by them. The respondent PIO after the order of the First appellate authority also informed the FAA that he was unable to furnish the certified copy of the NOC to

the appellant as despite of the search of all the documents available in the office from the last 1 month ,the said could not be located.

10. Section 2(f) of the RTI Act only refers to such material available in the records of public authority, while requiring PIO to furnish the information he cannot be called upon to create the information for being furnished since the PIO have catgorily submitted from inception that the copy of the said letter is not available in their records, and could not be traced despite of thorough search this commission cannot direct PIO to furnish the same, being not available with public authority Secondly the certified copies can be only issued of the original documents.
11. Since the original of the said letter is available with a Town and country planning Department , I feel end of justice would meet with the directions to the Respondent PIO to transfer the said application dated 3/11/2014 to the PIO of Town and country Planning Department Tiswadi taluka ,Panajim ,Goa u/s 6(3) of the RTI Act within 5 days from the receipt of this order

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 against this order under the Right to Information Act 2005.

Pronounced in the open court.

Proceeding closed.

Sd/-

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

