

# GOA STATE INFORMATION COMMISSION

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

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**Appeal No. 199/2016**

Shri Sushant Nagvekar  
House No. C-312, Fondvem,  
Ribandar, Goa.

..... Appellant

**V/s.**

1. Public Information Officer  
Office of Commissioner of Excise,  
Old High Court Building ,  
Panaji Goa.

2. First Appellate Authority & Commissioner of Excise,  
Old High Court Building,  
Panaji Goa .

..... Respondents

**CORAM:**

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

**Filed on: 22/09/2016**

**Decided on: 14/09/2017**

## **ORDER**

1. The second Appeal came to be filed by the Appellant Shri Sushant Nagvekar on 22/9/16 against Respondent No.1 PIO of office of the commissioner of Excise and as against Respondent No.2 First Appellate Authority under section (3) of section 19 of the RTI Act, 2005 .
2. In the present appeal , the appellant has prayed for penalizing the Respondent No.2 FAA for not passing the order and also prayed for directions to the Respondent No.1 to give clarifications in respect to the original reply and reply filed before respondent No.2 by the PIO .
3. The facts leading to the second appeal are that the appellant vide his application dated 6/4/16 had sought for certain information on six points as sated therein in the said application .

4. The said application was responded by the Respondent NO.1 PIO on 15/4/16 . vide said reply it was informed to the appellant that point No.(1)and (2) are transferred to excise station , Tiswadi Taluka . with regards to point No.(3), (4) and( 5) it was informed that there is no specific provision for renewal of liquor licence in case of death licencee and with regards to point No.(6) appellant was told to refer to Goa Exercise duty Act and rules 1964.
5. The appellant being not satisfied with the reply of the Respondent NO.1 PIO given at point No.(3), (4) , (5) and (6) of his request , approached the Respondent NO.2 FAA on 25/5/16 by way of 1<sup>st</sup> appeal .
6. Since no order was passed by the Respondent No.2 FAA ,and being aggrieved by the action of both the Respondents, the appellant have preferred this second appeal on the grounds raised in the memo of appeal.
7. In pursuant to the notice of this commission , Respondent No.1 PIO Shri Bhiv shet was present. Adv Kishor Bhagat placed on record memo of appearance on behalf of respondent No. 2 FAA.
8. Reply filed by Respondent No.1PIO and Respondent NO 2FAA on 23/5/17 respectively.
9. Written arguments filed by the appellant on 16/6/2017.
10. Since it is the case of the Appellant that reply filed by the PIO in the said 1<sup>st</sup> appeal on 9/6/16 was not in conformity with the original reply dated 15/4/16 and had prayed for clarification , and had raised certain issues in his written arguments, this commission directed the respondent PIO to clarify the same .Accordingly additional reply was filed by the Advocate for the Respondents on 7/7/17 , thereby clarifying the entire issue as such I am of the opinion that no intervention of this commission is required as far as prayer (3) of the Appellant .

11. Respondent No.2 .FAA vide said reply have contended that the 1<sup>st</sup> appeal was disposed by him on 9/8/16 and the order was served on the appellant on 20/9/16 .
12. Section 20 of the RTI Act provides that the commission , while deciding complaint or an appeal , shall imposed penalty on erring PIO incase where the PIO has , without any reasonable cause ;refused to receive an application for information,; or has not furnished information within the time specified u/s7(1) ;or malafidely denied the request for information ,or; knowingly given incorrect ,incomplete or misleading information ;or destroyed information which was a subject of the request ,or; obstructed in any manner in furnishing information.
13. Therefore, it is pertinent to note that as per the provisions of the RTI Act , only the PIO can be penalized u/s 20 and not the First Appellate authority . Hence the prayer (1) as sought by the appellant in the present appeal proceedings cannot be granted .

Appeal disposed accordingly . Proceedings 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 against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

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

