

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Appeal No.163/SIC/2012

Dr. (Ms) Kalpana V. Kamat,
Caldeira Arcade , 1st floor,
Bhutebhat, Mestawada, Vasco-da-Gama,
Goa- 403802

..... Appellant

V/s.

1. Public Information Officer,
Marmugao Muncipal Council,
Vasco-Goa
2. The First Appellate Authority,
Director of Municipal Administration,
Panaji-Goa.

....Respondents.

**Appeal filed on: 12/09/2012
Decided on: 25/01/2017**

ORDER

1. The appellant Ms. Dr. Kalpana V. Kamat by her application dated 9/07/2012, filed under section 6(1) of Right to Information Act 2005. Sought certain information at point No. 1 to 10 as stated therein in the said application, from the Public Information Officer (PIO) Mormugao Municipality, Vasco da Gama, Goa.
2. The Respondent No. 1 PIO replied to the said application on 9/08/2012 requesting the Appellant Ms. Kalpana to collect the documents after payment of necessary fees of Rs. 76/-.
3. Being aggrieved by the reply of the Respondent No. 1 the appellant preferred the first appeal before First Appellate Authority (FAA) who is Respondent No. 2 herein on 10/08/2012. Subsequent to the filing of the first appeal the PIO Respondent No. 1 vide his letter dated 27/08/2014 again called upon the appellant to inspect the file and to clarify the documents required by her.

4. The Respondent No. 2, FAA by an order dated 31/08/2012 disposed the appeal of the appellant and directed Respondent No. 1 PIO to furnish the same free of cost within 7 days.
5. In pursuant to the order of the Respondent No. 2, FAA. The present 2nd appeal came to be filed before this Commission on 12/09/2012 praying for the directions to provide correct information at an early date and for penal provision under the Right To Information Act 2005.
6. After notifying the parties, matter was listed on board and was taken up for hearing. The appellant was present in person. Respondent No. 1 represented by Advocate Pednekar.
7. The reply on behalf of Respondent No. 1 was filed on 22/09/2016 before this Commission annexing the Xerox copies of Registered A. D. Card and letter dated 24/07/2014, wherein it is mentioned that copies of the documents pertaining to above referred appeal is furnished. However the information which was furnished to the appellant vide said letter were not enclosed to the said reply.
8. Appellant filed an application on 15/12/2016 interalia submitting that the information pertaining to the only file inspected of Chalta No. 227 and 228 of P.T. Sheet 152 was partly send by Registered A. D. , and subsequently by another Registered AD the remaining information requested of Chalta No. 227 and 228 of P.T. Sheet 152 was send.
9. Appellant states that till date no inspection, nor information is given regarding Nayak Building , falling in Chalta No. 77 P. T. Sheet 153.
10. Further vide said application she had submitted that no information is received by her on queries from 1 to 10 are furnished to her.
11. As the Respondent No. 1 PIO is absent nor represented by his lawyer no clarification could be sought from them.
12. The appellant submitted that her application dated 15/12/2016 may be treated as arguments.
13. On scrutiny of the records it is seen that the information which came to be furnished on 25/07/2014 was prior to the passing of the

order by the Respondent No. 2 FAA. The order was passed by the Respondent No. 2 on 31/08/2012. The records shows that there was no compliance of the order of FAA by Respondent No. 1 PIO. The reply given before this Commission dated 22/09/2016 have been given on casual way. They have not explained the reason for not complying the order of FAA.

14. The act of the PIO is herein condemnable and against the mandate of RTI Act.

15. Once the order is passed by the FAA who is senior in rank then PIO, it was abundant duty of the PIO to abide by his direction. However, in utter disregards to the said order PIO again failed to provide information sought for once the order is passed.

16. *The PIO's to always keep in mind that there services are taken by the Government to serve the people of state in particular and the people of country at large. They should always keep in mind that the objective and the purpose for which the said Act came into existence. The main object of RTI Act is to bring transparency and accountability in public authority and the PIO's are duty bound to implement the Act in true spirit.*

17. If the correct information was furnished to the Appellant in the inception she would have saved her valuable time and hardship cause to her, in pursuing the said Appeal.

18. The appellant has also prayed for penal action. the Hon'ble High Court of Bombay at Goa in **writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others.**

"11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."

19. The PIO has initially responded the application of the appellant within time period and have also showed their willingness to provide the information vide letter dated 27/08/2014. Once the order is passed by the FAA what remains for them is only compliance

thereof. Since the record shows that order of FAA was not complied. The Commission takes the serious note of the same against the Respondent PIO and sternly warns them that any further lapses on their part will be viewed seriously.

The appellant herein has failed to show that the delay in furnishing the information was deliberate and intentional. On the contrary it appeared that the Appellant has delayed in receiving the information when offered. As such the other prayers in the nature of penal actions are not warranted to the facts of the case.

20. In view of the above given circumstances, I dispose the appeal with following order.

ORDER

1. The Respondent No. 1 PIO is hereby directed to furnish the information as sought by the appellant vide application dated 9/07/2012 and also directed to give the inspection of documents with regards to Nayak Building, falling in Chalta No. 77 of point sheet No. 153.
2. Considering the circumstances as discussed above relief in terms of prayers 2 and 3 are rejected however the Respondent No. 1 PIO have been admonished that if any lapses on their part of complying the FAA will be viewed very strictly.
3. Appeal disposed off 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. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa

