

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Appeal No. 121/2018/SIC-I

Shri Jawaharlal T. Shetye
H.N. 35/A, Ward No, 11,
Near Sateri Temple, Khorlim,
Mapusa-Goa -403 507

....Appellant

V/s

- 1) The Public Information Officer,
Mapusa Muncipal Council,
Mapusa-Goa – 403507
 - 2) First Appellate Authority,
Chief Officer, Mapusa Muncipal Council,
Mapusa-Goa 403507
-Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 14/05/2018

Decided on: 12/07/2018

ORDER

1. The facts in brief leading to present appeal are that the appellant Shri Jawaharlal Shetye by his application, dated 16/03/2018 filed u/s 6(1) of The Right to Information Act, 2005 sought for inspection of the construction license file of the building Lush green apartment constructed by the builder M/s CF Builders from Ansabhat, Mapusa through its proprietor Mr. Charles Florence Paes in the property known as ARADDICHEM BATTA, surveyed under chalta no. 20-A of PT Sheet NO. 113, admeasuring a area of 1898 sq. mts, Situated at Ansabhat Mapusa goa. The Said information was sought

from the Respondent No. 1 Public Information Officer (PIO) of the Mapusa, Municipal Council, at Mapusa Bardez-Goa

2. It is the contention of the appellant that he did not receive any reply to his above application from the PIO nor any information was furnished to him.
3. As the information as sought was not furnished, the appellant filed first appeal with the Chief Officer of Mapusa Municipal Council at Mapusa u/s 19(1) of RTI Act, 2005 on 27/04/2018 being the First Appellate Authority.
4. It is the contention of the appellant that Respondent No. 2 FAA did not take up the first appeal for hearing nor disposed its first appeal within stipulated time as contemplated under RTI Act, 2005 as such had no other alternative then to approach this Commission.
5. In the above background the appellant being aggrieved by action of PIO and of First Appellate Authority (FAA), has approached this Commission in this second appeal u/s 19(3) of the RTI Act 2005 on 14/05/2018 with the contention that the information/ inspection is still not provided and seeking order from this commission to direct the PIO to provide him requested inspection of the above referred construction file and also for other reliefs, including compensation.
6. Matter was taken on board and was listed for hearing, pursuant to the notice of this Commission, appellant appeared in person. Respondent PIO Shri Venkatesh Sawant appeared and filed his reply alongwith enclosures on 25/06/2018. Copy of the reply and the enclosures were

furnished to the appellant. The Respondent No. 2 FAA opted to remain absent despite of due service of notice, nor filed any reply to the proceedings.

7. During the proceedings the Respondent PIO submitted that he tried to trace the file pertaining to the information sought by the appellant, however in absence of details such as construction license no., renewal of construction license no. and occupancy certificate number, it is not possible to locate the file. He further submitted that he had issued letter to the appellant to that effect on 7/05/2018 in order to enable him to search the said file from the record room, however the appellant not given any feedback to the said letter.
8. The appellant then submitted that the inquiry proceedings is pending with the Chief Officer in respect of installation/erection of Mobile towers on the terrace of the said building as such it is his contention that the main file of the construction license ought to be available with the Public Authority concerned herein.
9. The PIO undertook to trace the said file based on the details given by the appellant and to provide the inspection of the said file before the next date of hearing. The Commission directed PIO to intimate the appellant once the file is traced and the appellant agreed to carry out the inspection of the said file.
10. Accordingly PIO appeared before this Commission on 12/07/18 and reported that the inspection has been carried out by the appellant and filed compliance report alongwith

annexures and submitted that appellant has endorsed on noting sheet of having carried inspection on 10/07/2018.

11. Since the inspection of the file as sought by the appellant vide his application dated 16/03/2018 have been provided to the appellant. I find no intervention of this commission required theretoo for the purpose of furnishing information and as such the prayer (1) becomes in fructuous.
12. On perusal of records, the letter dated 7/05/2018 which is referred by the PIO and which is enclosed by the PIO to his reply reveals that the same is not made within stipulated time of 30 days. As such I find some truth in the contention of the appellant that the both the Respondents have not acted in conformity with the RTI Act, 2005. However, as there is nothing on records that such lapses on the part of the Respondent PIO is persistent, as such considering this as first lapse on his part a lenient view is taken and he is hereby directed to be vigilant hence forth while dealing with the RTI matters and to comply the provisions of RTI Act in true spirit.
13. The Respondent No. 2 FAA showed the scant respect to the Commission and did not bothered to appear and file his appropriate reply. It is observed by this Commission in other proceedings also the FAA did not bother to appear and file his appropriate reply. Such an attitude and conduct on the part of the FAA is condemnable and has to be brought to the notice of his superiors.
14. Public authority must introspect that non furnishing of the correct or incomplete information lands the citizen before FAA and also before this Commission resulting into

unnecessary harassment of the common men which is socially abhorring and legally impermissible.

15. Hence in exercise of my powers conferred u/s 25(5) of RTI Act 2005 this Commission recommends that the Director of Municipal Administration, Panjim shall issue instruction to both the respondents to deal with the RTI matters appropriately in accordance with the provisions of the RTI Act and any lapses on the part of respondents be considered as dereliction of duties.

16. With the above directions, the appeal proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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.

Sd/-

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

Kk/-