

**GOA STATE INFORMATION COMMISSION**

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

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**Appeal No. 225/2018/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 Municipal Council,  
Mapusa-Goa – 403507
- 2) First Appellate Authority,  
Chief Officer,(Mr. Clen Madeira)  
Mapusa Municipal Council,  
Mapusa-Goa 403507

.....Respondents

**CORAM:**

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

**Filed on: 18/09/2018**

**Decided on:25/10/2018**

**ORDER**

1. The appellant, Shri J. T. Shetye has filed the present appeal praying that the information as requested by him in his application dated 28/5/2018 be furnished to him correctly and completely and for invoking penal provisions against the Respondent Public Information Officer (PIO).
2. The brief facts leading to the present appeal are as under:-
  - a) The appellant vide his application dated 28/5/2018 addressed to Respondent No. 1 PIO, of Office of Mapusa Municipal Council at Mapusa, requested to furnish certain information on 5 points as stated in said application pertaining to the letter bearing No. 2/2/2016/DMA/PG /Mapusa/Part/634 dated 31/5/2017 addressed to the chief officer of Mapusa Municipal council by the Additional Director,Department of Urban Development (Municipal Administration). The said application was filed by the

appellant with the Respondent No. 1 PIO u/s 6(1) of Right to Information Act, 2005.

- b) It is contention of the appellant that he has not received any reply from the PIO nor any information furnished to him within stipulated time of 30 days.
  - c) As the information as sought was not furnished the appellant filed first appeal before the Chief Officer of Mapusa Municipal Council who is Respondent No. 2 herein on 24/7/2018 being First Appellate Authority (FAA).
  - d) According to the appellant his said first appeal was not taken up for hearing by the Respondent No. 2 First Appellate Authority (FAA), despite of issuing notice dated 13/8/2018, neither passed any order within stipulated time as contemplated u/s 19(1) of the RTI Act, 2005.
  - e) As no information was received by the appellant and he being aggrieved by the action of both the Respondents, the appellant approached this Commission in this second appeal u/s 19(3) of the Act, on 18/9/2018 with the contention that the information is still not provided and seeking order from this Commission to direct the PIO for providing him information as sought by him free of cost and for imposition of penalty on PIO for a delay in furnishing the information.
3. In pursuant to the notice of this Commission the appellant was present in person. The Respondent PIO Shri Vyankatesh Sawant present and filed his reply on 25/10/2018 thereby furnishing pointwise information along with the enclosures. The copy of the same was furnished to the Appellant and the appellant was directed to verify the information and report accordingly.
4. The appellant after verifying the information furnished to him vide letter dated 24/10/28 submitted that except information at point No. 4 he satisfied with the rest of the information. He further

submitted that the information at point No. 4 has been partly provided to him and the name of the officer entrusted the duties of processing above refer representation dated 31/5/2017 received from the office of DMA have not been provided to him .

5. The PIO undertook to verify the names and designations of the officials from their office records once again and also undertakes to furnish the same to the appellant after verifying the records.
6. The Respondent PIO vide his reply dated 25/10/2018 have contended that Shri Shivram Vaze was officiating as PIO on the day of filing of the application dated 28/5/2018 by the appellant and he has been retired from the services on superannuation.
7. On going through the entire records of the present file it is seen that the Respondent PIO Shri Shivram Vaze have failed to respond the said application filed by Appellant u/s 6(1) of RTI Act, 2005 within stipulated time of 30 days as contemplated u/s 7(1) of RTI Act, have not replied neither provided information. The information as sought by the appellant have been provided on 25/10/2018 during the present appeal proceedings by the present PIO vide his letter dated 24/10/2018 .
8. The Respondent No. 1 then PIO did not place any correspondence on records of having responded the application of the appellant and of having furnished full information to appellant within 30 days time. Nor the FAA filed any reply to the averments made by the appellant in his memo of appeal. As such prima facia I find truth in the contention of the appellant.
9. The displeasure is hereby expressed by this commission on the conduct and the attitude of the Respondent No. 2 First Appellate Authority (FAA). The records shows that even though the First appeal was filed by appellant the same was not disposed by the FAA within a period of 45 days. The Respondent No. 2 First appellate authority despite of due service of notice did not bother to appear

before this Commission neither any reply was filed by him. It is seen from the past records that the Respondent no. 2 first appellate authority have acted in similar manner and fashion showing scant respect to the provisions of the RTI Act and also to the commission. Unfortunately there are no any penal provisions against the first appellate authority under the RTI Act for non compliance of the provisions. However such repeated attitude on the part of the first appellate authority cannot be taken lightly and has to be brought to the notice of his superiors.

10. The act on the part of then PIO Shri Shivram Vaze and Respondent No. 2 First appellate authority is not in conformity with the provisions of RTI Act, 2005. The said act came into existence to provide fast relief and as such time limit is fixed under the said act to dispose the application u/s 6(1) of RTI Act, 2005 within 30 days and to dispose first appeal maximum within 45 days.
11. In the present case undisputedly the then Respondent No.1 Shri Shivram Vaze has retired as such as per today he is entitle for pension. Section 11 of pension act 1871, and section 60 (1) (g) of Civil Procedure Court grant immunity to the pension holder against its attachment. The Apex court in case of Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra in Appeal (Civil) 1874 of 1999 and also in civil appeal No. 6440-41 of 2008, Radhe Shyam Gupta v/s Punjab National Bank has also given finding that retired benefits such pension and gratuity etc does not loose their character and continued to recognized by the proviso (g) of section 60(1) of the code of civil procedure. Under this circumstances the Commission is neither empowered to order a deduction from his pension or from gratuity amount for the purpose of recovering penalty or compensation if awarded.
12. In the above given circumstances and in the light of the discussion above I dispose the above appeal with the following:-

## Order

- a) The appeal is partly allowed.
- b) The Respondent PIO hereby directed to provide correct and complete information as sought by the appellant at point No. 4 of his application dated 28/5/2018 within 15 days from the date of receipt of this order .
- c) Respondent No. 2 FAA is hereby directed to be vigilant henceforth while dealing with RTI matters and to strictly comply with the provisions of the Act.
- d) 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 the respondent No. 2 first appellate authority 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.
- e) Copy of this order shall be sent to Director of Municipal Administration, Panjim Goa for information and necessary action.

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