

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers', Seventh Floor, Patto, Panaji Goa

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**Shri Prashant S.P. Tendolkar,**  
State Chief Information Commissioner

**Complaint No.18/SCIC/2017**

Shri Sushant P Nagvenkar,  
House No C-312, Fondvem,  
Ribandar – Goa, 403006. .... Complainant

V/s

- 1) The Public Information Officer,  
Office of the Deputy Collector & S.D.O.  
Panaji –Goa.
- 2) The First Appellate Authority,  
Office of the Deputy Collector & S.D.O.  
Panaji –Goa. .... Respondents.

Filed on : 28/03/2018

Disposed on:20/6/2018

**O R D E R**

a) The complainant herein by his application, dated 06/04/2017 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from office of Mamlatdar Tiswadi, who transferred the same the Respondent No.1, PIO.

b) The said application was not responded to by the PIO within time and as such deeming the same as refusal complainant filed first appeal to the respondent No.2 on 30/05/2017.

c) According to complainant the First Appellate Authority failed to pass any order on the said appeal within time and hence the complainant has landed before this commission by way of complaint u/s 18 of the act.

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d) Considering the averments of the complainant notice was issued to the PIO to show cause as to why penalty as contemplated u/s 20(1) and/or 20(2) of the act should not be initiated against him.

f) The then PIO Shri Pundalik Khorjuvekar appeared and filed his reply on 15/11/2017. In his said reply, it is his contention that as the information sought was not maintained in the form as was sought by complainant, by his letter, dated 04/05/2017 the complainant was called upon to inspect the records so as to provide him the information. According to him the information as maintained by the authority, also contained the personal information of parties, which cannot be furnished under the act.

With reference to the first appeal filed by the complainant, the PIO has submitted that the complainant had filed first appeal but according to him it was wrongly addressed to “First Appellate Authority, office of Dy. Collector & S.D.O” when infact the first appellate Authority is the “Additional Collector”. According to him as the said appeal was wrongly addressed it was filed.

g) Considered the records and the contentions of parties. Though the PIO contends that the complainant was called upon to inspect the records, Commission finds no documents supporting such contention and hence unable to take cognizance of such fact.

Coming to the contention of the PIO that the first appeal was wrongly addressed, Commission unable to accept the said contention. Such an averment exhibits either the failure to understand the hierarchy of the forum

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created under the act or an attempt to frustrate the process. It is to be noted that the hierarchy of forum under the act is distinct from the departmental hierarchy/setup. The hierarchy of forums created under the act is with respect to each public authority and thus the FAAs which are provided under the act is pertaining to each public Authority. In the present case the FAA provided is the FAA of Dy. Collector & SDO. It is not Additional Collector under the act, though under departmental hierarchy the incumbent is Additional Collector.

Assuming for a while that the PIO had misread their authority, considering the preamble of the act and the aims and objective therein, more particularly at proviso to section 6(1) and the intent of section 6(3), the said appeal memo could have been sent/transferred to the office of Additional Collector to be dealt with as FAA instead of filing the same.

In the above circumstances the submissions of PIO does not appeal to this Commission and the gesture of filing the appeal memo without hearing the same is contrary to the intent and provisions of the act.

h) This Commission has sought for a say from the FAA on the Status of the first appeal. Initially it was stated that the appeal was disposed on 06/03/2018 but when confronted with the statement of PIO that the First Appeal memo was not presented before FAA, the respondent No.2 he filed an affidavit on 05/06/2018 interalia submitting that the first appeal pertaining to the application u/s 6(1) which is the subject herein, was not received by him and that

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earlier reply was filed which contained the facts of another appeal by the same complainant.

i) It is thus seen that either by ignorance or in an attempt to frustrate the process of act, the complainant was deprived of a forum under the act to agitate his grievance, which is the FAA. Being so Commission finds that he should be offered such forum to seek redressal his grievance. Commission therefore find it appropriate to remand the proceedings before the first Appellate Authority of the office of Dy. Collector & SDO, Panaji, which is the respondent No.2 herein to entertain and decide the first appeal after hearing the parties.

j) In the above circumstances the First Appellate Authority, i.e. the respondent No.2 herein is hereby directed to entertain, hear and decide the first appeal, dated 29<sup>th</sup> May 2017 filed by the complainant without insisting on the limitation period fixed for filing of the first appeal. The appeal shall be disposed within the time stipulated under the act and the date of receipt of this order by it shall be deemed as the date of filing the appeal before it for computing the period of disposal.

The conduct of the then PIO, Shri Pundalik Khorjuvekar being not in conformity with the provisions and requirements of the act, Commission hereby instructs him to be diligent hence forth in dealing with the RTI matters and get himself appraised with the requirements of the act, more particularly the authorities constituted under the act. Any such lapse on the part of said PIO henceforth the shall be seriously viewed.

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The right of the complainant to file second appeal and/or complaint under the act, if aggrieved by the order of the First Appellate Authority, are kept open.

Notify parties.

A copy of the memo of first appeal filed by complainant herein be annexed to the copy of the order to be sent to the parties.

Pronounced in open hearing.

Sd/-

**(Prashant S.P. Tendolkar )**

State Chief Information Commissioner

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Panaji - Goa