

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Appeal No. 123/ SIC/2015

Shri Bharat L. Candolkar,
Vady, Candolim,
Bardez-Goa

V/s.

1. Public Information Officer,
Mr. K. Ashok Kumar,
TCP Dept, Mapusa, Bardez-Goa
2. The First Appellate Authority,
North Goa Planning and Development Authority,
Panaji-Goa Respondents

Appeal filed on: 27/11/2015

Decided on: 16/05/2016

ORDER

1. Brief facts of the case are that the Appellant vide his applications dated 8/04/2015 filed two separate applications seeking certain information from the Respondent, Public Information Officer (PIO), of Goa Coastal Zone Management Authority, Patto, and from PIO, of Deputy Collector Mapusa, Bardez-Goa on 8 points specifically regarding Mr. Rui De Gama and Mrs. Gama Builders Pvt. Ltd. for carrying on construction in property bearing No. 128/04 and 128/06 of village Candolim-Goa.
2. Vide letter dated 1/06/2015 the PIO of Goa Coastal Zone Management Authority, Patto Panjim transferred the said application to PIO, of Town and Country Planning Department, Patto Panaji u/s 6(3) (ii) of the RTI Act, 2005 with the request to provide information pertaining to point 1 to 4 of the RTI application of the Appellant.
3. The PIO-7, of Town and Country Planning department (HQ) Panaji-Goa inturn by their letter dated 12/06/2015 transferred the said RTI Application to the PIO, of their Mapusa Office with the request to furnish the information to the Appellant at point No. 1 to 4.
4. The PIO deputy Collector and SDM, Mapusa also by his letter dated 17/06/2015 also transferred application received from the Appellant dated 08/04/2015 to the Town Planner, Town & Country Planning Department, Mapusa –Goa requesting to furnish the information pertaining to point No. 2 & 3 of the said RTI Application.

5. In short both the RTI application one address to PIO, Goa Coastal Zone Management Authority, Panaji another to PIO, Deputy Collector Bardez-Mapusa-Goa were transferred under section 6(3) to the present PIO, Town & Country Planning Department, Mapusa, Goa.
6. The present PIO by his letter dated 22/06/2015 and 29/06/2015 replied the Appellant with regards to his RTI Application stating that the file Registers available to their office record were checked but could not locate any of the references of survey No./subdivision No. , Applicant's name and village name as mentioned by the Appellant and as such the said information was not furnished.
7. Being not satisfied with the reply of the Respondent No. 1, PIO, Appellant then preferred first Appeal before First Appellate Authority on 08/09/2015.
8. Since the Respondent No. 2, FAA, failed to dispose the first Appeal, within specified time as contemplated under the said Act the second Appeal came to be filed before this Commission on 27/11/2015.
9. The Appellant in his prayer before this Commission has sought for direction to the Respondent No. 1, PIO to furnish information, for inspection of records, files, registers etc. and for other relief of penalty and disciplinary action and Compensation.
10. During the hearing the Appellant is represented by Advocate, A. Mandrekar and Respondent PIO, Shri Vinod Kumar present.
11. On scrutiny of the file it is seen that the Appellant had filed the first Appeal before the FAA on 08/09/2015. The FAA has not passed any Order.
12. Section 19(6) states “ An Appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.”
13. The displeasure is hereby expressed by this Commission for the conduct and attitude shown by the FAA. It has been observed in various cases that FAA either does not pass any Orders or such Orders are passed after the stipulated time, as such great inconvenience and hardship, mental agony is thereby caused to the Appellant.
14. It is hereby observed by this Commission that in present case even though the Appellant has preferred the Appeal before the FAA/Respondent No. 2 have failed to pass an order on the first Appeal. The Role of Commission as prescribed u/s 19 (3) is by way of second Appeal and that to only against

the decision of FAA. In other words the role of Commission would come in play only after the issue is decided by the First Appellate Authority.

15. As per section 6(3) it is mandatory that transfer of such application has to be made as soon as practicable but no in case later than five days of the receipt of the application however, it is hereby observed that in present case respective PIO's have made such an transfer at very belated stage.
16. In the circumstances to my mind present Appeal appears to be premature and I find the end of justice would meet incase appropriate direction issued to the FAA. In view of above following Order is passed:-
 - a) As the first Appeal was not disposed, the Respondent No. 2 is hereby directed to take up the Appeal filed by the Appellant on 08/09/2015 for hearing and dispose it in accordance with law.
 - b) The Appellant and Respondent No. 1, PIO to appear before Respondent No. 2, FAA on 27th June 2016 at 3.30 p.m. and the Respondent No. 2, The FAA shall dispose of the Appeal expeditiously within thirty days.
 - c) PIO's and FAA is hereby directed to comply with the mandatory provisions henceforth.

Appeal dispose of accordingly proceeding 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 under the Right to Information Act 2005.

Sd/-

(Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission, Panaji-Goa