

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

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Appeal No.74/2019/SIC-I

Shri. Jawaharlal T. Shetye,  
H.No.35/A,W. No-11,  
Khorlim, Mapusa Goa.  
Pincode-403 507.

...Appellant

V/s

- 1) The Public Information Officer,  
Mapusa Municipal Council,  
Mapusa Goa.
- 2) First Appellate Authority,  
The Chief Officer (Mr. Clen Madeira),  
Mapusa Municipal Council,  
Mapusa-Goa.

.... Respondents

**CORAM:**

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

Filed on: 22/3/2019

Decided on:8/4/2019

**ORDER**

1. The second appeal came to be filed by the appellant Shri Jawaharlal T. Shetye on 22/3/2019 against the Respondent No.1 Public Information Officer of Mapusa Municipal Council, Mapusa-Goa and as against Respondent no. 2 first appellate authority under sub section (3) of section 19 of RTI Act 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 17/12/2018 had sought for certain information from Respondent No.1 Public Information Officer (PIO) Mapus Municipal Council, Mapusa Goa as listed therein at serial No.1 to 9 pertaining mainly to letter No.DMA/Engineering/COMP/MAPU/2018–19/F26/2633 dated 6/12/18 addressed to Chief Officer of Mapusa Municipal Council by Additional Director,

Department of Urban Development (Municipal Administration) and other information pertaining to other development and construction work undertaken by Mapusa Municipal Council. The said information was sought in exercise of his right u/s 6(1) of RTI Act, 2005.

3. It is the contention of the appellant that his above application filed in terms of sub section 1 of section 6 was not responded by the respondent no. 1 PIO nor any information was furnished to him within stipulated time as contemplated under the RTI Act as such deeming the same as refusal/rejection, the appellant filed 1<sup>st</sup> appeal on 21/1/2019 to Respondent no 2 Chief Officer of Mapusa Municipal Council being first appellate authority in terms of section 19(1) of RTI Act, 2005.
4. It is the contention of the appellant that the respondent no. 2 first appellate authority as usual failed to dispose his appeal within the mandatory period of 45 days as such he being aggrieved by the action of both the respondents is forced to approach this commission on 22/3/2019 in his 2<sup>nd</sup> appeal seeking relief of directions to PIO to furnish the information as also seeking penalty and compensation for not giving information within time.
5. The matter was taken up on board and was listed for hearing. In pursuant to notice of this commission, Appellant was present in person. Respondent PIO was represented by Advocate M. D'Souza. Respondent no.2 First appellate authority opted to remain absent.
6. During the hearing before this commission the appellant submitted that the Respondent No.2 first appellate authority deliberately does not pass any judgement in the first appeal filed by him in order to protect and cover up the illegalities committed by the public authority concerned herein i.e Mapusa Municipal

council. He further submitted and prayed that the matter may be remanded to the First appellate authority for its just decision .

7. Say of the respondent PIO was sought for on the above contention of the appellant to remand the matter back to respondent No.2 first appellate authority. Advocate for the respondent PIO submitted that on account of non hearing of the first appeal by Respondent no. 2 first appellate authority, the PIO is losing an authority and opportunity to put forth his grievance before an lower forum and as such did not object for remanding the matter back to Respondent no. 2 first appellate authority for hearing and deciding it fresh.
8. The appellant as well as Respondent PIO endorsed their respective say on the last page of memo of appeal.
9. The past records shows that the Respondent No. 2 first appellate authority despite of due service of notice, did not appear and file his say before this commission Since the Respondent no. 2 first appellate authority again opted to remain absent hence this commission could not obtain his view/say on contention and the averment made by the appellant .
10. I have scrutinised the records available in file, submissions made by respondents and pleadings made in the memo of appeal.
11. The facts on the records reveals that the fist appeal was filed on 21/1/2019 and from the endorsement given by the Mapusa Municipal council to the appellant it could gather that the same was received on the same day in the office of first appellate authority. There are no records to show that notices were issued by the first appellate authority to both the parties intimating date of hearing it appears that the Respondent No. 2 did not hear the first appeal filed by the appellant on 21/1/2019 neither disposed the first appeal within stipulated time as contemplated under RTI

Act. The entire conduct of the Respondent No. 2 first appellate authority appears to be casual and not in conformity with the provision of RTI Act. There was no opportunity to the respondent PIO to put forth his grievance/justify his denial before respondent No.2 first appellate authority as such this commission is in agreement with the contention of respondent No.1 PIO that he is losing a forum to put forth all the facts before first appellate authority.

12. This commission, without expressing her views on the merits of the matter, is of the opinion that in the interest of justice, equity and good conscience, the matter has to be remanded back to the Respondent No. 2 First appellate Authority with a direction to hear both the parties and to decide the matter in accordance with law.
13. Hence this commission disposes the present appeal with order as under:-

#### ORDER

- a) The matter is remanded back to the Respondent No. 2 first appellate authority and respondent no.2 FAA is hereby directed to hear a fresh, first appeal filed by the appellant herein on 21/1/2019, and to decide same within 30 days, in accordance with law .
- b) The appellant as well as Respondent No.1 PIO is hereby directed to appear before Respondent No.2 first Appellate authority on 26/4/2019 at 11.00 a.m.
- c) The right of the appellant to approach this commission in appeal and/or in complaint, if aggrieved by the decision of First appellate Authority is kept open .

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.