

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

Appeal No.123/2019/SIC-I

Shri Ligorio Pereira,
Through power of attorney
Joao C. Pereira,
H. No. 40, Ascona,
Utorda, Majorda,
Salcete Goa.

....Appellant

V/s

1. Public Information officer/
Deputy Town Planner,
Town & Country Planning Department,
4th floor, Osia Building, Margao-Goa.
2. First Appellate Authority,
The Senior Town Planner,
Town & Country Planning Department,
Margao-Goa.

.....Respondents

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

Filed on:6/5/2019

Decided on:22/08/2019

ORDER

1. In exercise of the right u/s 6 (1) of RTI Act, 2005 the appellant Shri Ligorio Pereira filed his application on 24/01/2019 seeking certain information from the Respondent no.1 Public Information Office (PIO) of the Town & Country Planning Department, at Margao on three points as stated there in his said application pertaining to his construction file bearing no. TPM/const/Utroda/27/1/19 of survey number 37/1 of village Utorda.
2. It is the contention of the appellant that his said application was not responded nor information was furnish to him as per section 7(1) of RTI Act, 2005 within a period of 30 days , as such considering the same as rejection, the appellant filed first appeal on 28/02/2019 before the Senior Town Planner, Town &

Country Planning Department, Margao Goa being First Appellate Authority (FAA) in term of section 19(1) of RTI Act, 2005.

3. It is the contention of the appellant that after he filing first appeal before Respondent no. 2, the Respondent no. 1 PIO prepared back dated letter dated 22/2/2019 which was received by him somewhere of 06/03/2019 denying the information on the ground that file bearing no. TPM/cons/Utroda/27/1/19/36/06 dated 17/02/2019 is not traceable in the office records.
4. It is the contention of the appellant that during the proceedings before first appellate authority that Respondent no. 1 PIO came with a new theory that the said construction file of the appellant was forwarded to the office of Chief Town Planner on 14/01/2004 which in turn was forwarded to office of Goa Costal Zone Authority and the same was never returned by the office of Goa Costal Zone Authority back to the office of Respondent no. 1 inspite of reminding the same to the member secretary of Goa Costal Zone Authority.
5. It is a contention of the appellant that Respondent no. 2 FAA finally disposed his first appeal by order dated 24/04/2019 by upholding the say of PIO and the appellant was directed to approach the member secretary, Goa Costal Zone Authority regarding the information as sought by him vide his letter dated 24/01/2019.
6. It is the contention of the appellant that he being aggrieved by the action of both the respondent is forced to prefer the present appeal in terms of section 19(3) of RTI Act, 2005 on the grounds raised in the memo of appeal.
7. In this background the second appeal came to be filed on 06/05/2019 by the appellant with a contention that the information is still not furnished and seeking directions from this

commission to PIO to furnish him the information immediately by tracing the file, for quashing and setting aside the order of respondent no. 2 dated 24/04/19 and for invoking penal provisions as against Respondent No. 1 PIO .

8. The matter was taken up on board and was listed for hearing. In pursuant to the notice of their commission appellant was present in person. Respondent no. 1 was initially represented by Shri Ramnath Pai and thereafter neither the PIO or his represented remained present. Respondent no. 2 FAA opted to remain absent.
9. Since both the Respondents continuously remained absent as such fresh notices were again sent to Respondents on 3/7/2019 to be served through Chief Town and Planner. Since PIO did not appears again fresh notices were also issued to Respondent for the third time , which was duly served on them by appellant . In pursuant to which PIO Shri Ritesh Shirodkar appeared only on 17/7/2019 and thereafter remained absent.
10. Opportunities were granted to both the respondent to file their say despite of the same, no say came to be filed as such this commission presumes and holds that both the respondents have no say to be offered and the averments made by the appellant in the memo of appeal are not disputed by them.
11. Since both the respondent did not appear neither filed any say, hence this commission had no any options then to hear the arguments of the appellant and to decide the matter based on the records.
12. It is the contention of the appellant that the stand taken by the Respondent no. 1 before the FAA is contrary to the reply given by the Respondent no.1 to the appellant vide letter dated 22/02/2019. It is further contention of the appellant that the

order passed by Respondent no. 2 is without proper application of mind. It was further contended that the Respondent no. 1 has deliberately prepared back dated letter dated 22/02/2019 in coalition with Respondent no. 2 after the appellant filed first appeal. He further contended that he has sought the said information as the same is required by him on priority and urgent basis as the same is required to be filed before the Hon'ble Supreme Court of India in special writ petition and the respondent are aware of the said writ petition as the parties to the said writ petition and hence they are deliberately denying the said information to him.

13. I have scrutinized the records available in the file also considering the submissions of the appellant.
14. It appears that the information sought pertains to the year 1999. Though the respondent PIO have initially taken the stand that the concern file TPM/const/Utorda/27/1/99/3605 dated 17/01/1999 is not traceable in the office records however the PIO during the FAA had submitted that as per available records, the then town planner, south Goa district office vide letter dated 01/02/2016 had requested member secretary, Goa Coastal Zone Authority to return the file bearing no. TPM / const / Utorda / 27/1/99/3605 which was forwarded to them by Chief Town Planner vide letter dated 14/01/2004 and reminder was also sent to Goa Coastal Zone Management Authority by them on 22/2/2019 to return the concern file.
15. An application also came to be filed by the appellant on 28/6/2019 there by relying upon the letters of Respondents dated 14/1/2004, sending the file bearing No. TPM/Const/Utorda /37/1/3071 to the Member secretary, of Goa Coastal Management at Saligao, Bardez-Goa and letter dated 1/2/2016

and letter dated 22/2/2019 addressed to Member Secretary by the Chief Town Planner requesting to return the file back to them.

16. Since the file was in the custody of the Goa Coastal Zone Management Authority this commission directed to issue notice to the Secretary to the Goa Coastal Zone Management Authority in terms of section 5(5) of Goa State Information Commission (Appeal Procedure) Rules 2006. In pursuant to the said notice Advocate V. Garcious appeared on behalf of Member Secretary of Goa Coastal Zone Management Authority and submitted that a concerned file has been returned back to the Department of Town and Country Planning, at Margao on 10/7/2019 and accordingly placed on record letter dated 10/7/2019 resubmitting the file to the Town and Country Department, at Margao.
17. The appellant also filed application on 22/8/2019 alongwith the enclosures more particularly Xerox copy of the extract of the acknowledgment book having received the said file by the town and Country Planning Department Margao on 10/7/2019. Hence from the documents produced by the Advocate for GCZMA and by the appellant it could be gathered that the original file is presently in the custody of the Town and Country Planning Department, Margao –Goa.
18. Before parting it need to mention that despite of issuing notices on three occasions to the PIO, the PIO opted to remain absent on most of the dates of hearing showing scant respect to this commission. The PIO also did not bother to file appropriate reply to the appeal proceedings. Despite of receiving the file on 10/7/2019 back from GCZMA, the PIO did not take any steps to provide the information to the appellant. It appears that the lots of hardship has been caused

to the appellant in pursuing the said application and seeking information which was required by him to produce it before the Apex Court . Such a conduct and attitude on the part of the Respondent PIO is herein condemnable. Considering this as a first lapse on the part of PIO, this Commission takes a lenient view against Respondent PIO and PIO is directed to be vigilant hence forth while dealing with RTI matters.

19. In the given circumstances ,Since the file is resubmitted to the public authority concerned herein i.e Town and Country Planning Department at Margao Goa, I am of the opinion that the ends of justice will meet with following order;

Order

- a. Appeal partly allowed .
- b. The Respondent No. 1 PIO is hereby directed to provide the point wise information including inspection of the construction file in Survey No. 37/1 Village Utorda bearing No.TPM/Const/Utorda/37/1/3071 as sought by the appellant vide his application dated 24/1/2019 to the appellant within 15 days from the receipt of this order, free of cost.

With this above directions the appeal proceedings stands 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 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