

**GOA STATE INFORMATION COMMISSION**

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

**Appeal No. 134/2019/SIC-I**

Shri Jawaharlal T. Shetye  
H.N. 35/A, Ward No, 11,  
Near Sateri Temple, Khorlim,  
Mapusa-Goa -403 507  
V/s

....Appellant

1) The Public Information Officer,  
The main Engineer (Diniz D'Mello)  
Mapusa Municipal Council,  
Mapusa-Goa – 403507

2) First Appellate Authority,  
Chief Officer, (Mr. Clen Madeira)  
Mapusa Municipal Council,  
Mapusa-Goa 403507

.....Respondents

**CORAM:**

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

Filed on: 08/05/2019

Decided on: 5/07/2019

**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 28/1/2019 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 28/1/2019 addressed to Respondent No. 1 PIO, of Office of Mapusa Municipal Council at Mapusa, requested to furnish certain information on 6 points as stated therein in the said application .
  - b) The said application was filed by the appellant with the Respondent No. 1 PIO u/s 6(1) of Right To Information Act, 2005.
  - c) 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 as contemplated under sub-section (1) of section 7 of RTI Act, 2005.

- d) It is the contention of the appellant that as the information as sought was not furnished, the appellant filed first appeal in terms of section 19(1) of RTI Act before the Chief Officer of Mapusa Municipal Council who is Respondent No. 2 herein on 4/2/2019 being First Appellate Authority (FAA).
  - e) It is contention of the appellant that his said first appeal was not taken up for hearing by the Respondent No. 2 First Appellate Authority (FAA), neither passed any order within stipulated time as contemplated u/s 19(6) of the RTI Act, 2005.
  - f) It is contention of appellant that as no information was received by the appellant and he being aggrieved by the action of both the Respondents, had approached this Commission in this second appeal u/s 19(3) of the Act, on 8/5/2019.
  - g) In this background the appellant has approached this commission 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 and the respondent No. 2 first appellate authority opted to remain absent despite of due service of notice .
4. Opportunity was granted to both the respondent to file their respective say despite of same no say came to be filed on their behalf. It appears that they have no any say to be offered and

hence this commissions presumes and holds that both the Respondents does not disputes the averments made by the appellant in the memo of appeal.

5. Arguments of the appellant heard
6. It is the contention of the appellant that the both the Respondents as usual has failed to dispose off his RTI application and his first appeal within a mandatory period .It is his contention that he had sought the said information in larger public interest and hence the respondent should have been provided him the same. It was further contended that the information denied to him deliberately by the PIO in order to protect the illegality committed by the public authority concerned therein.
7. I have scrutinised the records available in the files so also considered the submission of the appellant
8. On going through the application filed u/s 6(1) of RTI Act, it is seen that appellant has sought for the information pertaining to all his complaint/representation inwards in the office of Municipality since January 2018 till the date of application and also sought specific information pertaining to his representation dated 22/12/2017 addressed to Chief officer of Mapusa, Municipal Council with a subject "*grievance regarding Police complaint dated 2/8/2017 to register FIR with regards to missing of the file of Mr. Prabhakar yende*" and also the action taken reports on his all complaints . In other words the appellant was intending to know the action taken report/ status/progress report made on his complaints/representations by the Mapusa Municipal Council.
9. The Hon'ble Delhi High Court in writ petition (c)No. 5957/2007; Kusum Devi V/s Central Information Commission has held that;  
"The petitioner certainly has right to ask for "Information" with regards to complaints made by him, action taken and the decision taken thereafter".

10. In my opinion and subscribing to the ratio laid down by The Hon'ble High Court of Delhi in case of Kusum Devi (supra), the appellant had every right to know the status of his representation and proceedings conducted therein.
11. Further on going through the entire records of the present case, it is seen that the application was filed on 28/1/2019. The same was suppose to be responded by 28/2/2019 . The Respondent No. 1 PIO did not place any correspondence on records of having responded to the application of the appellant and of having furnished information to appellant within 30 days time as contemplated u/s 7(1) of RTI Act. Hence from undisputed and unrebutted facts, it is seen that the Respondent PIO 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.
12. Respondent No. 2 First appellate authority also did not placed on record any documents of having heard the first appeal nor placed on record the order passed by him .
13. 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. The Act and conduct on the part of PIO and Respondent No. 2 First appellate authority is not in conformity with the provisions of RTI Act, 2005.
14. The displeasure is hereby expressed by this commission on the conduct and the attitude of the both the respondents. Both the respondents 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 both the have acted in similar manner and fashion showing scant respect to the provisions of the RTI Act and also to the commission. Such a conduct on the part of

both the Respondents is not in conformity with the provision and the spirit of the act. It also amounts to derelictions of duties and of unbecoming of Government servant. Hence it is the need of the hour that such attitude and conduct of both the respondents cannot be taken lightly and has to be viewed seriously.

15. From the gesture of both the Respondents ,and as both the Respondents since not catagorily disputed and rebutted the contention of the appellant as raised in the memo of appeal. I find prima facie some substance in the argument of the appellant that the PIO purposely and malafidely refused access to the information and first appellate authority deliberately did not passed any order. However such repeated attitude on the part of both the Respondents cannot be taken lightly and has to be brought to the notice of his superiors
16. 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 allowed.
- b) The respondent PIO hereby directed to provide correct and complete information, free of cost to the appellant as sought by the appellant vide his application dated 28/1/2019 within 20 days from the date of receipt of this order
- c) In excise 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. 1 PIO and to 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.

d) 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