

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

Appeal No. 159/2019/SIC-I

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

....Appellant

V/s

- 1) The Public Information Officer (PIO),
The Main Engineer Gr-I(Diniz D'Mello)
Mapusa Muncipal Council,
Mapusa-Goa – 403507.
- 2) First Appellate Authority (FAA),
Chief Officer, (Mr. Clen Madeira),
Mapusa Muncipal Council,
Mapusa-Goa 403507

.....Respondents

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

Filed on: 4/06/2019

Decided on:26/08/2019

ORDER

1. In exercise of the right u/s 6(1)of RTI Act, 2005 the appellant Shri Jawaharlal Shetye filed his application on 06/02/2019 seeking certain information from the Respondent no.1 Public Information Officer of Mapusa Municipal Council, Mapusa, Bardez-Goa on 13 points as stated therein in the said application.
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 12/03/2019 before the Chief officer of Mapusa Municipal Council,Mapusa, Bardez-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 the Respondent No. 2 first appellate authority, did not disposed his first appeal within stipulated time as such he is forced to file the present appeal.

4. In the above background the appellant being aggrieved by action of PIO and of First Appellate Authority (FAA), has approached this commission on 4/6/2019 in this second appeal u/s 19(3) of the act with the contention that the information is still not provided and seeking order from this commission to direct the PIO to furnish the information as also for invoking penal provisions as against respondent PIO so also sought compensation for the detriment suffered by him at the hands of Respondents.
5. Matter was taken up on board and was listed for hearing and accordingly notices were issued to the parties, pursuant to which appellant was present in person. Respondent PIO Shri Diniz D'Mello appeared along with APIO Vinay Agarwadekar. The Respondent No.2 First Appellate Authority (FAA) opted to remain absent despite of due service of notice neither filed any reply to the proceedings.
6. Affidavit filed by Respondent no. 1 PIO on 20/8/2019 alongwith enclosures. The copy of the same was furnished to the appellant.
7. Vide reply PIO contended that efforts were made by him to trace out the concerned files/documents from the three sections and the available information with documents were submitted to the appellant vide office letter No.ST/RTI/4498/2019 dated 16/7/2019 through by post. It was further contended that there was no any willful intention on his part to cause any monetary loss or delay to furnish the information to the appellant.
8. The appellant admitted of having received the information however it is his contention great hardship has been caused to him and lots of his valuable time have been wasted in pursuing the said application/information which was sought by him in larger public interest. And on that ground he pressed for invoking penal provisions.

9. Since the information have now been provided to the appellant as per his requirement, I am of the opinion that no intervention of this commission is required for the purpose of furnishing the information and hence the prayer (i) becomes infructuas.
10. On perusal of the records, it is seen that both the Respondents have not acted in conformity with the provisions of RTI Act, 2005. The application dated 6/2/2019 was filed and received by the Office of Respondent PIO on 6/2/2019 itself. Under section 7(1) of the Act, the PIO is required to respond the same within 30 days from the said date. The Respondent PIO has not placed on record any documentary evidence of having adhered to section (7)of RTI Act, 2005.

The records shows that the first appeal was filed by the appellant on 12/3/2019 which was received in the Office of First Appellate Authority on the said day itself. As per section 19(1) of RTI Act, 2005 , the time limit is fixed to dispose the appeal within 30 days and maximum within 45 days. There are no records of having passed order by respondent no.2 first appellate authority.
11. Thus from the records and undisputed facts, it could be gathered that the Respondent then PIO Shri Diniz D'Melo have failed to respond the said application filed by the appellant u/s 6(1) of RTI Act and that the first appellate authority did not disposed the first appeal within the period of 45 days.
12. The information was sought on 6/2/2019 was furnished only on 16/7/2019 during the present second appeal proceedings. There is a delay in furnishing the information .
13. Both the respondents have not acted in conformity with the provisions of RTI Act. It is quite obvious that appellant has suffered lots of harassment and mental agony in seeking the information and pursuing the matter before different authorities.

Such a conduct by both the Respondent is obstructing transparency and accountability appears to be suspicious and adamant visa-vis the intent of the Act. Hence the Act on the part of the both the Respondents herein is condemnable.

14. As there is no evidence produced on records by the appellant of detriment or losses suffered by him, the relief of compensation sought by the appellant cannot be granted.
15. In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following:

ORDER

- a) Appeal partly allowed.
- b) Since the information have now been furnished to the appellant, no intervention of this commission is required for the purpose of furnishing the information and as such pray (i) becomes infructuas.
- c) Both the respondents are hereby directed to be vigilant henceforth while dealing with the RTI matters and to strictly comply with the provisions of the Act. Any lapses on their part in future will be viewed seriously.
- d) 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 both the respondents 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.
- e) 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