

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

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**Appeal No. 67/2019/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),  
Mapusa Muncipal Council,  
Mapusa-Goa – 403507.
- 2) First Appellate Authority (FAA),  
Chief Officer, Mapusa Muncipal Council,  
Mapusa-Goa 403507

.....Respondents

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

**Filed on: 13/03/2019**

**Decided on: 30/04/2019**

**ORDER**

1. The second appeal came to be filed by the appellant Shri Jawaharlal T. Shetye on 13/3/2019 against the Respondent No.1 Public Information Officer of Mapusa Municipal Council, Mapusa, Bardez-Goa and against Respondent no. 2 first appellate authority under sub section (3) of section 19 of Right To Information 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) of Mapusa Municipal Council, Mapusa-Goa on 5 points as stated therein in the said application mainly pertaining to his representation dated 30/11/2018 addressed to Chief Officer/Chairperson of Mapusa Municipal Council with a caption/subject as "cancel/Revoke establishment licence No.EST/1(L)/47/ 26661/97 dated 18/06/1997 issued in the name of Advocate Francisco C.J.A. D'Souza for running

the business in H.No. 157(8) ward No. 5 at Altinho Mapusa-Goa". 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 Public Information Officer (PIO) within stipulated time of 30 days and as such deeming the same as rejection, the appellant filed 1<sup>st</sup> appeal to Respondent no 2 chief officer of Mapusa Municipal council on 22/1/2019 being first appellate authority.
4. It is the contention of the appellant that the Respondent No. 2 , did not disposed his first appeal within stipulated time as such he is forced to file the present appeal.
5. In the above background the appellant being aggrieved by action of PIO and of First Appellate Authority (FAA), has approached this commission 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.
6. 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 Vyankatesh Sawant appeared along with Advocate Matlock D'Souza and sought time to file reply. 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. The Respondent Public Information Officer (PIO) despite of giving opportunities failed to file any say nor furnished information to the appellant. As such it is presumed that both the Respondents has no say to be offered and the averments made by the appellant in the memo of appeal are not disputed by them.

7. Section 4 (1)(d) of RTI Act, 2005 requires to provide reasons for its Administrative or quasi Judicial decision to effected person. It is seen from the records that appellant had enclosed representation dated 30/11/2018 made by him to the Chief Officer/Chairperson of Mapusa Municipal Council to his RTI application dated 17/12/2018, filed u/s 6(1) of RTI Act, 2005 and sought information at point no. 1 to 4 on the said representation.
8. The Hon'ble High Court of Delhi in writ petition No. 5957/2007 Kusum Devi V/s Central Information Commission & others has held that at para 5;

"The petitioner certainly has right to ask for "information" with regards to complaint made by him, action taken and the decision taken thereafter".
9. By subscribing to the ratio laid down by the Hon'ble Delhi High Court in case of Kusum Devi (Supra), I am of the opinion that the appellant herein is entitled/has right to ask/seek for information pertaining to his representation dated 30/11/2018 as such he is entitled to receive information at point no. 1 to 4 as sought by the appellant vide his RTI application dated 17/12/2018.
10. It appears that the Information at point No.5 is required to be maintained by the public authority concerned herein as per prevailing law in force and hence it ought to be available in the public domain.
11. Further 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 17/12/2018 was filed and received by the Office of Respondent PIO on 17/12/2018 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 have 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 22/01/2019 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.

12. Thus from the records and undisputed facts, it could be gathered that the Respondent then PIO Shri Venkatesh Sawant 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.
13. The information was sought on 17/12/2018 and till date the same have not been provided to the appellant. The respondent PIO during the proceeding before this Commission sought time to furnish the information but failed to provide the same. There is a delay in furnishing the information. 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 allowed.
- b) The Respondent PIO is hereby directed to furnish the complete and correct information as sought by the appellant vide his application dated 17/12/2018 free of cost within 20 days from the date of the receipt of the order.
- 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 exercise 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