

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.113/2019/SIC-II

Shri. Vishwanath B. Solienkar,
S1 Artic Apartments,
Behind Don Bosco Engineering College,
Fatorda, Margao - Goa.

..... Appellant

v/s

1. Public Information Officer,
Office of the Registrar of Births & Deaths
Margao Municipal Council,
Margao – Goa.

2. First Appellate Authority,
Office of the Chief Officer,
Margao Municipal Council,
Margao – Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 08-07-2019

Date of Decision: 08-07-2019

O R D E R

1. **Brief facts of the Case** are that the Appellant has approached the Commission by way of a Second Appeal registered on 03/05/2019 being aggrieved with the fact that although he had filed an RTI application dated 21/01/2019 u/s 6(1) seeking certain information from the Respondent PIO, O/o Births & Deaths, Margao Municipal Council, the said information has not been furnished by the PIO correctly and further even on filing a First appeal on 27/02/2019, the First Appellate Authority (FAA) although had issued notices, has failed to pass any order and as such he has filed the present Second Appeal praying to direct the Respondent PIO to furnish information sought in the RTI application and to impose penalty and for other such reliefs.
2. **HEARING:** During the hearing the Appellant Shri. Vishwanath B. Solienkar is present in person. The Respondent PIO and FAA are both represented by Advocate Santosh G. Naik who files his Vakalatnama which is taken on record.

3. **SUBMISSION:** At the outset Appellant submits that he has received incorrect and misleading information and the Registrar of Births and Deaths is required to maintain the records as required under the Law and that the excuse given by the PIO that the record book is not traceable cannot be accepted. The Appellant further submits that the furnishing of information is delayed beyond mandated 30 days period as per RTI Act, 2005 and moreover wrong information is provided by the PIO and requests the Commission that direction be issued to the PIO to provide the correct information and action be taken against the PIO.
4. The Advocate Santosh Naik for the PIO submits that pursuant to receiving the RTI Application, the PIO vide letter No.MMC/ADMN-RBD/2018-19/3103 dated 08/03/2019 has furnished whatever information was available in tabulation form. The Appellant however argues that this incomplete information was furnished only after he filed a First appeal on 27/02/2019 and that there is a delay of 18 days.
5. **FINDINGS:** The Commission after hearing the respective parties and perusing the material on record indeed finds that although the PIO has furnished information in tabulation form, there is a delay of 18 days. The Commission further finds that the Appellant had filed a First appeal on 27/02/2019 and pursuant to which the First Appellate Authority (FAA) had issued notices, yet it is not known as to why the FAA has failed to pass any order. The FAA being a quasi judicial body should have applied his mind and decided the First Appeal as per 19(1).
6. The Commission notes with serious concern that such a serious lapse on part of the FAA clearly tantamount to dereliction of duty and cannot be taken lightly more so as the FAA is a senior officer of the rank of Chief Officer, Margao Municipal Council. The FAA is hereby called upon by this Commission to explain the reason for the failure to discharge his duties which he is legally bound as per the RTI act 2005. The FAA is directed to remain present personally before the Commission with his reply, if any on **28th August 2019 at 11.30am.**

7. **DECISION:** As per the RTI act 2005, a Second Appeal u/s 19(3) lies against the Order / Decision of the First Appellate Authority (FAA) and arises out of 19(1). As there is no Order passed by the FAA as per 19(1), the Commission without going into the merits of the appeal case remands the matter back to the First Appellate Authority (FAA).
8. The FAA is hereby directed to issue fresh notices to both the Respondent PIO and the Appellant within 15 days of the receipt of this order in any case latest by 31st July, 2019. The FAA shall after hearing the parties decide the First Appeal on merits by passing an appropriate speaking order. Needless to say that the said First appeal should be disposed off within 30 days from the date on which the parties attend on the date of the first hearing.
9. In exceptional cases, the FAA may take 45 days, however where disposal of appeal takes more than 30 days, the FAA should record in writing the reasons for such delay. If the FAA comes to a conclusion that the appellant should be supplied information by the PIO, then he may either i) pass an order directing the PIO to give such information to the appellant or ii) he himself may give information to the appellant while disposing off the First Appeal.
10. It is open to the Appellant if he is still aggrieved by the order of the FAA, to approach this Commission either by way of a Second Appeal u/s 19(3) or a Complaint u/s 18 as the case may be. Consequently the prayer of the appellant to impose penalty on the PIO for the delay caused cannot be entertained at this stage and accordingly stands rejected.

With these directions the appeal case stands disposed.

Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner