

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.16/2019/SIC-II

Shri Policarpo C.M. Socorro Da Costa,
H. No. 197/3,
Addaowaddo , Majorda,
Salcete – Goa.
403713.

..... Appellant

v/s

1. Public Information Officer,
Dy. Collector of Salcete,
Margao – Goa.
403601
2. First Appellate Authority,
Additional Collector – I,
Margao, Salcete Goa. 403601

..... Respondents

Relevant emerging dates:

Date of Hearing : 11-06-2019

Date of Decision : 11-06-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 01/08/2018 sought certain information under Section 6(1) of the RTI Act, 2005 from Respondent PIO, O/o Dy. Collector II, Salcete, Margao-Goa. The information pertains to case No.LRC/PART/MAJ/255/2010/III including (1) Certified copies of the final order passed in the above case. (2) Reply to letter issued by Superintendent of Survey and Land Records Margao bearing No.3/ISLR/283/2011/2573 dated 27/10/2016 and (3) if not replied by you the above letter then reason for not reply.
2. It is seen that the PIO has not filed any reply and as such the Appellant filed a First Appeal on 21/09/2018 before the First Appellate Authority (FAA) and the FAA vide an Order dated 23/10/2018 directed the Respondent PIO to furnish the information within 15 days from the receipt of the Order free of cost. ...2

3. Being aggrieved that despite the directions of the FAA, the PIO has not furnished any information, the Appellant thereafter has approached the Commission by way of Second Appeal registered on 18/01/2019 and has prayed that the Respondent No.1 be directed to furnish all the documents mentioned No. RTI/APPEAL/EST/AC-I/2018 i.e. relevant documents information at points a) to c) and same is furnished to the Appellant free of cost and for Directions to Respondent No.1 to issue reply to the Memorandum No.3/ISLR/283/2011 of office of Superintendent of Survey and Land Records, Margao and for imposing penalty and other such reliefs.
4. **HEARING:** During hearing the Appellant Shri Policarpo C.M. Socorro Da Costa is present alongwith his Advocate Kashinath Kurtarkar. Shri Abhishek Naik, Awal Karkun O/o Dy. Collector & S.D.O. Margao, is present on behalf of Respondent No. 1. The matter by consent is taken up for final disposal.
5. **SUBMISSION:** At the outset Shri Abhishek Naik, Awal Karkun states that several efforts were made by the dealing clerk handling the partition matter of SDO-I to trace the said file bearing No.LRC/PART/255/2010/III from list of disposed files which is 5,500 plus however the same is not traceable. It is also stated as per the direction of the Commission, the Appellant had inspected the inventory of old disposed files in the office of the undersigned on 15/05/2019, and all efforts have been made to trace the file however no positive results yielded. An Affidavit filed by the PIO is produced before the commission which is taken on record. The Advocate for the Appellant submits that such an excuse that the said file is not traceable is not acceptable and that cost must be imposed.
6. **FINDINGS:** The Commission after perusing the material on record and after hearing the submission of the respective parties finds that at the last hearing held on 11/04/2019, the Appellant was directed.....

....to jointly search for the missing file along with the PIO and that the Appellant and his Advocate had visited the office of the PIO and conducted the thorough search for the missing file and are themselves satisfied that the said file is not traceable.

7. Further, the PIO has filed an Affidavit clearly stating that there is list of 5,500 disposed files and an inventory list of old disposed file pertaining to the partitions that were available in the respective record rooms were prepared separately as per the villages allotted to S.D.O. I and S.D.O. – II and checked, however the said file LRC/PASRT/255/2010/III is not traceable despite efforts also being also made by the dealing clerk handling the Partition matter.
8. **DECISION:** The Commission accordingly comes to the conclusion that as the said file is not traceable, the said information cannot be furnished. As stipulated in the RTI Act, the role of the PIO is to provide information as is available, how is available, what is available and if available from the records. The very fact that the PIO has made a diligent search jointly in the presence of the Appellant for the missing file and despite this the file is not traceable go to prove the bonafide as there is no malafide intention on the part of the PIO to either conceal or deny the information. The PIO filed an Affidavit confirming the facts that the file is not traceable is also sufficient to show that it is due to the missing file that the information could not be furnished.
9. **CONCLUSION:** Since the said file is not traceable, the information cannot be furnished as such **Nothing further survives in the Appeal case which stands disposed.** Consequently the prayer of the Appellant to impose penalty and costs stand rejected.

With these observations, all proceedings in Appeal case stands closed. 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