

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 163/2019/SIC-II

Mr. Uddesh B. NaikDessai,
Major of age,
H.No. 213, Beclawada,
Cuncloim, Salcete – Goa.

..... Appellant

v/s

1. The Public Information Officer,
Curcholem–Cacora Municipal Council,
Curcholem – Goa.
2. The Chief Officer,
The First Appellate Authority,
Curcholem-Cacora Municipal Council,
Curcholem – Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 13-11-2019

Date of Decision : 13-11-2019

ORDER

1. **Brief facts** of the case are that the Appellant vide an RTI application dated 20/12/2018 sought certain information u/s 6(1) of the RTI Act, 2005 from the PIO, Curcholem–Cacora Municipal Council, Curcholem - Goa.
2. The Appellant is *inter alia* seeking information of certified true copies of total correspondence and notings in regard of suspension of Head Clerk of the said Municipal Council from 22/06/2018 to 06/12/2018 and certified true copies of inward and outward register from 01/11/2018 to 06/12/2018 and certified true copies of all memorandums, notes, orders and circulars issued to Municipal staff from 22/06/2018 to 06/12/2018 if any by the Chief Officer of the said Municipality.
3. It is the case of the Appellant that the PIO has not replied nor furnished any information as required under section 7(1), as such the Appellant thereafter filed a First Appeal on 25/01/2019 and it is seen that the First Appellate Authority (FAA) has not passed any order. ...2

4. Being aggrieved, the Appellant has approached the Commission by way of a Second Appeal case registered on 01/07/2019 and has prayed that the present Appeal case be allowed and to direct the Respondent PIO to furnish complete information sought in the RTI Application and for penalty and other such reliefs.
5. **HEARING:** During hearing Appellant Mr. Uddesh B. NaikDessai is present in person. The Respondent PIO & FAA is represented by Shri. Ramesh S. Prabhudessai, UDC, Curchorem–Cacora Municipal Council, Curchorem-Goa.
6. **SUBMISSIONS:** The Appellant submits that he had filed an RTI application dated 20/12/2018 and that the PIO has not replied nor furnished any information as required under section 7(1), and even after filing proper First Appeal, the First Appellate Authority has not passed any order. The Appellant further submits that the strict action should be taken against the PIO and the FAA and penalty should also be imposed.
7. Shri. Ramesh S. Prabhudessai for the Respondents submits that the Chief Officer who is the First Appellate Authority (FAA) were frequently transferred and hence the First Appeal was pending for disposal. It is also submitted that present FAA had gone for training and has four additional charges.
8. **FINDINGS:** The Commission on perusing the material on record and after hearing the submissions of the both parties finds that the First Appellate Authority(FAA) has not passed any Order in the first appeal case although the Appellant had filed proper First appeal as per 19(1). The FAA being a quasi judicial body should have applied his mind and decided the First Appeal as per the RTI Act. The FAA is duty bound to see that the justice is done. The Commission finds that such a 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, Curchorem–Cacora Municipal Council, Curchorem - Goa.

9. The FAA is hereby called upon by this Commission to explain the reason for failure to discharge duties which he is legally bound. The FAA is directed to remain present before the Commission with his explanation /reply on 09th December, 2019 at 11.30 am.
10. **CONCLUSION / DECISION:** A Second Appeal under section 19(3) lies against the Order and decision of the First Appellate Authority (FAA) as per section 19(1), however as the FAA has not given any decision and has not passed any Order on the First Appeal, the Commission without going into the merits of the Appeal case accordingly remands the matter back to the present FAA.
11. The First Appellate Authority (FAA) is directed to issue fresh notices to the parties i.e. both the Respondent PIO and the Appellant within 15 days of the receipt of this order in any case latest by 16th December, 2019. The FAA shall after hearing the parties decide the First Appeal on merits by passing an appropriate speaking order giving justification for the decision arrived at.
12. 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. 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.
13. It is open to the Appellant herein 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 Appeal u/s 18 as the case may be.

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