

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 244/SIC/2016

Sushant P. Nagvenkar,
H. No. C-312,
Fondvem,
Ribandar – Goa. 403006

... Appellant

v/s

1. The Public Information Officer,
Dy. Commissioner,
Corporation of the City of Panaji,
Panaji – Goa.

2. The First Appellate Authority,
Commissioner,
Corporation of the City of Panaji,
Panaji – Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 06-03-2019

Date of Decision: 06-03-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 04/07/2016 sought certain information from Respondent PIO, O/o Corporation of the City of Panaji, Panaji - Goa under section 6(1) of the RTI act 2005. The information relates to photocopy of approved construction plan which the Appellant enclosed with the RTI application and the Appellant *inter alia* is seeking information as follows: (1) to provide copy of the complete file record in respect of approval process of the plan. (2) Provision under the law or statute under which the plan is approved. (3) Dimensions and area of the plot as per survey reference of the plot appearing on the plan. (4) In case the plan is not genuine the same be categorically stated.
2. The PIO vide reply letter No. F19/CCP/ENG/RTI/2016-17/3721 dated 27/07/2016 informed the Appellant that on searching the available records of the office file pertaining to the construction license the same cannot be traced and requested the Appellant to furnish other details like construction licence number and date, occupancy certificate number and date in order to undertake another search for location of the file. ...2

3. It is seen that the Appellant has thereafter furnished some more details in compliance with request of the PIO by including an NOC for the electrical connection dated 13/11/2008 and Municipal trade licence. The appellant further finding that inspite giving additional documents, the PIO has not given any further information, has subsequently filed a First Appeal on 03/08/2016 and the First Appellate Authority (FAA) vide an order dated 22/09/2016 partly allowed the Appeal and directed the PIO to furnish proper information after making as much efforts to trace the file and if available in the office records to give point-wise/para-wise reply as per the original RTI application dt 04/07/2016 within 20 days free of cost.
4. Being aggrieved that despite the Order of First Appellate Authority (FAA), the PIO has not furnished any information, the Appellant has subsequently approached the Commission by way of Second Appeal registered on 07/11/2016 and has prayed to direct the Respondent PIO to furnish information and for penalty and for other such reliefs.
5. **HEARNG:** This matter has come up before the Commission on numerous previous occasions and thus taken up for final disposal. During the hearing Appellant Shri Sushant P. Nagvekar is present in person. The Respondent PIO and FAA both are absent.
6. **SUBMISSION:** At the outset the Appellant submits that no information has been furnished by the PIO, as such the directions be given to the PIO to furnish information and also penalty should be imposed. The Appellant also states that the PIO is giving contradictory replies and that the second reply of the PIO dated 11/07/2018 is contrary to the first reply dated 27/07/2016 and that the PIO is thereby trying to evade the furnishing of information by taking an excuse that the plan annexed by the appellant is not approved by the NGDPA. The Appellant also submits that the public authority is not adhering to 4(1)(a) and 4(1)(b) and direct the public authority to take steps to follow the same. ...3

7. **FINDINGS:** The Commission has perused the material on record and after hearing the submission of the Appellant finds that the PIO in his First reply dated 27/07/2016 had mentioned in paragraph 01 thus: 'that after thorough search from available record in this file pertaining to construction license cannot be traced. Further it is also seen that the PIO vide another letter dated 11/07/2018 addressed to the Commission has also stated thus: 'It is seen from the records of this office that the said plan attached to the RTI application dated 04/07/2016 is furnished by the applicant Shri Sushant P. Nagvekar and it is not NGPDA approved plan. For the purpose of issuing any construction licence, the office strictly abide to NGPDA approved plan'.
8. The Commission accordingly comes to the conclusion that since the information about the plan submitted by the Appellant in his RTI application is not traceable, the same could and cannot be furnished. As stipulated in the RTI Act, the role of the PIO is to provide information as is available and what is available from the records. The PIO is not called upon to research or to create some information to satisfy the whims and fancies of the Appellant.
9. The very fact that the PIO has filed two replies dated 27/07/2016 and 11/07/2018 is sufficient to prove the bonafide that there is no malafide intention on the part of the PIO to deny the information. As the plan submitted by the appellant was not approved by the NGPDA, the said information could not be furnished as not being available and therefore the PIO cannot be faulted in any way. Nothing further survives in the Appeal case which accordingly stand disposed. The Public authority to take steps to implement section 4(1)(a) and 4(1)(b) of the RTI act.

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