

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No: 250/2018/SIC-II

Mr. Souza Leonardo Caetano,
S. Bras Ilhas,
P.O. Marcella – Goa,
Pin 403107.

.... Appellant

v/s

1. The Public Information Officer,
O/o Dy. Collector & S.D.O,
Panaji-Goa.
403 001.

2. The First Appellate Authority,
O/o Collector & District Magistrate,
Collectorate North Goa,
Tiswadi, Panaji-Goa,
403 001.

.... Respondents

Relevant emerging dates:

Date of Hearing : 08-01-2019

Date of Decision : 08-01-2019

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 14/06/2016, sought certain information under Section 6 (1) of the RTI Act. 2005 from the Respondent PIO Office of Dy. Collector and S.D.O Panaji Goa. The information pertains to three points and the Appellant *inter alia* has asked to issue the following full files for inspection and to issue required certified xerox copies of (1) Village: Gaundalim Survey No.15/1, 16/0 Mutation No.7
(2) Case No.18/1/2001-LRC-MISC/366
(3) Case No.18/01/2001-LRC-Misc/367

2. It is seen that the PIO as per 7 (1) vide reply No.DYC/TIS/RTI-INFORM/2015/1229 dated 05/07/2016 informed the Appellant that with respect to point No. 1, the same is transferred under section 6 (3) of the Right to Information Act, 2005 to the Mamlatdar of Tiswadi, Panaji and with regards to point No.(2) & (3) it was informed that as per the records available the files mentioned in the application are not traceable in the office. ...2

3. Not satisfied with the reply, the Appellant filed the First Appeal on 15/07/2016 and the First Appellate Authority (FAA) vide Order passed on proceeding sheet on 07/08/2018 directed the PIO to search the missing files in his office and trace the same and provide copies to the Appellant within 15 days and further incase no files are traced an FIR should be registered with Police for the missing records.
4. The Appellant being aggrieved, that the PIO has not complied with the Order passed by the First Appellate Authority (FAA) has subsequently approached the Commission by way of a Second Appeal registered on 26/10/2018 and has prayed that directions be given to the PIO to furnish information at point No.2 & 3 of the main application to the Appellant at the earliest.
5. **HEARING:** During the hearing the Appellant Mr. Souza Leonardo Caetano is present in person. The Respondent PIO is represented by Mrs. Efi D'mello, Head Clerk who undertakes to file her letter of Authority. The FAA is represented by Shri Sagar Naik, Awal Karkun who also undertakes to file his letter of Authority.
6. **SUBMISSIONS:** At the outset the representative for the PIO, Mrs. Efi D'Mello submits that the directions of the First Appellate Authority (FAA) have been complied and that a diligent search was made for the missing record in the office, however despite a complete search, the said file were not traceable and therefore a Police Complaint was filed with the Panaji Police Station. The PIO files a reply along with annexures dated 08/01/2019 confirming the facts which is taken on record. A copy is also given to the Appellant.
7. The Appellant in his submission states that he approached the Commission for non compliance of order of the FAA. The Appellant states that although a Police Complaint has been filed regarding the missing records and reply given, the PIO has not filed an FIR as directed by the FAA.

8. **FINDINGS:** The Commission after hearing the respective parties and perusing the material on record indeed finds that the said files were not traceable despite diligent search and as such the PIO could not furnish the information. Thus the PIO cannot be faulted in anyway. 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 is available from the records.
9. **DECISION:** The very fact that the PIO has furnished a reply as per 7 (1) bearing No.DYC/TIS/RTI-INFORM/2015/1229 dated 05/07/2016 informing the Appellant that with regards to information at point No.(2) & (3) the files mentioned in the application are not traceable in the office and further as per directions of the FAA, the PIO has carried out a diligent search for the missing records and also filed a police complaint, the same is sufficient to prove the bonafide that there was no malafide intention on the part of the PIO to either conceal or deny the information.
10. The Appellant has argued that the PIO has not filed an FIR as Ordered by the FAA. The Commission finds that such argument lacks merit. The PIO has not reported theft of the file and as such there was no necessity to file FIR as it is not the duty of the Police to search for the missing records in the office of the PIO.

Consequently the Appeal is devoid of any merit and accordingly stands dismissed.

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