

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

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**CORAM: Shri Juino De Souza: State Information Commissioner**

**Appeal No: 80/2019/SIC-II**

Jawaharlal T. Shetye  
H.No. 35/A, Ward No. 11,  
Khorlim, Mapusa, Goa – 403 507

**..... Appellant**

**v/s**

1. Public Information Officer,  
Mapusa Municipal Council,  
Mapusa, Goa – 403507
2. First Appellate Authority,  
The Chief Officer,(Mr.Clen Madeira),  
Mapusa Municipal Council,  
Mapusa, Goa - 403507.

**..... Respondents**

**Relevant emerging dates:**

**Date of Hearing : 10-07-2019**

**Date of Decision : 10-07-2019**

**O R D E R**

1. **Brief facts** of the case are that the Appellant vide an RTI application dated 29/10/2018 sought certain information u/s 6(1) of the RTI Act, 2005 from the PIO, Mapusa Municipal Council, Mapusa – Goa by enclosing photo copy of Licence No.73 dated 10/01/2008 issued in the name of Shri. Sudhir R. Kandolkar and Shri. Rohan Kavlekar power of attorney holder to Smt. Surangi Bicholkar.
2. The Appellant is *inter alia* seeking information regarding 1.)Certified copy of completion certificate by NGPDA and Mapusa Municipal Council. 2) certified copy of the occupancy certificate issued from your end for the construction of residential/commercial building at Feira Baixa under chalta no.23 of P.T Sheet No.136. 3) certified copy of the conversion sanad issued by the collectors office to the plot bearing chalta no. 23 of P.T Sheet No.136 4) certified copies of all the renewal licenses issued by the Mapusa Municipal Council and other such related information.
3. It is seen that the PIO vide reply letter No. MMC/ENGG/RTI/630/2019 dated 25/01/2019 furnished information at point nos.(1), (2), (4) and (5) by enclosing certified copies of the documents and also stated that with regards to information at point no.....

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.....(3) documents are not available in the office records. PIO in the letter also requested the Appellant to attend the office for the inspection of file on 01/02/2019. The said reply has been sent by the PIO after the order of the FAA.

4. The Appellant filed in the meantime filed a First Appeal on 04/12/2018 and First Appellate Authority (FAA) vide a short order on the roznama dated 16/01/2019 directed the PIO to furnish information to the Appellant free of cost within 15 days of the Order.
5. Being aggrieved that the information at point no.3 is not furnished, the Appellant filed Second Appeal before this Commission registered on 29/03/2019 and has prayed to direct the PIO to provide the inspection of the file pertaining to the construction licence no.73 and to file police complaint before Mapusa Police Station and register F.I.R regarding the non availability of requested documents and to impose penalty and other such reliefs.
6. **HEARING:** During the hearing the Appellant Shri. Jawaharlal T. Shetye is present person. The PIO and FAA are both absent.
7. **SUBMISSIONS:** At the outset the Appellant submits that the PIO, Mapusa Municipal Council is not attending the hearings before this Commission and is taking matters lightly. The Appellant requests the Commission to take stringent action against the PIO for neglecting to attend the hearings before the Commission. It is also submitted that if the information at point no 3 was missing, then the PIO should have filed a police complaint. The Appellant also requests that directions should be given to the public authority to implement sections 4(1)(a) and sections 4(1)(b) of the RTI act 2005.
8. **FINDINGS:** The Commission after perusing the material on record and hearing the submission of the Appellant indeed finds that it was only after the order of the FAA dated 16/01/2019, that the PIO vide reply letter no. MMC/ENGG/RTI/630/2019 dated 25/02/2019 had furnished the information to the Appellant on all points except at point no 3 and which the Appellant is interested in receiving. ...3

9. The PIO in his reply has stated that the same is not available in the office records. As stipulated in the RTI Act, the role of the PIO is to provide information as is available and if available in the records. The PIO is not called upon to create information to satisfy the Appellant. As the information was not available the same could not be furnished.
10. **DECISION**: Nevertheless, the Commission hereby directs the PIO, Mapusa Municipal Council to once again do a diligent search for the missing information at point no.3 and if the same is traced to furnish it to the Appellant via speed post. In the event the information is not available, then the PIO will file an affidavit with the commission confirming the facts. The said directions should be complied and completed within 20 days of the receipt of this order.
11. Before parting, the commission wishes to place on record about the habitual absenteeism of the PIO during hearings. The PIO is called upon to tender his explanation, if any, as to why costs should not be imposed on him and disciplinary action not taken for dereliction of duty. The PIO to remain present on 26<sup>th</sup> August 2019 at 11.30 a.m.
12. Regarding the request of the Appellant that the PIO should file a missing police complaint, the Commission is of the opinion that the same is not necessary as it is not the job of the Police to search the missing records in the office of the Public Authority.
13. The Commission also directs the Public authority to take necessary steps to implement sections 4(1)(a) and sections 4(1)(b) of the RTI act 2005 with immediate effect.

**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**