

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 276/SIC/2016

Jawaharlal T. Shetye,
H.No.35/A, Ward No.11
Near Sateri Temple,
Khorlim, Mapusa – Goa. 403507

..... Appellant

v/s

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

... Respondents

Relevant emerging dates:

Date of Hearing: 19-03-2019

Date of Decision: 19-03-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 22/08/2016 addressed to the PIO, Mapusa Municipal Council, Mapusa -Goa sought certain information under section 6(1) of the RTI Act by enclosing a photo copy of a Complaint dated 26/05/2016 made by Councillor Mr. Tushar Tople against Datwani Developers for violating Municipal laws.
2. The Appellant is *inter alia* seeking information of the action taken if any on the above referred Compliant dated 26/05/2016 and to furnish certified copies of all the notings, correspondence, status /progress, names and designation of all your official entrusted with duties of processing, certified copies of all the replies filed by Mrs. Geeta Bala M. Naik Parulekar, stoppage Order No.MMC/Engg/ILL/ 6516/2016 dated 22/07/2016 if still in force or withdrawn, list of construction licenses and occupancy certificates issued during the tenure of the Chief Officer Mr. Raju Gawas from the period since Sept. 2013.

3. The Appellant is also seeking information of the list of names of all those persons requesting Mapusa Council for issuing construction licences and occupancy certificates. Information regarding all the Complaints filed by the twenty Councilors to the Mapusa Municipal Council against the construction projects and certified copy of the alignment certificate for residential building on Chalta No.15B of P.T.S No.136 issued to Geeta Bala Naik Parulekar after duly inspecting the construction site as per her request letter dated 01/06/2016.
4. It is seen that the PIO vide reply No.MMC/EST/RTI/8269/2016 dated 23/09/2016 has informed the Appellant that with respect to the complaint made by Shri Tushar Tople, Councillor dated 26/05/2016 and regarding reply to stoppage order dated 22/07/2016 by Geeta bala M. Naik Parulekar the information cannot be sought in respect of two or many subjects by way of one application and hence has not furnished the information.
5. Not satisfied with the reply of the PIO the Appellant filed a First Appeal on 28/09/2016 and the First Appellate Authority (FAA) vide an Order dated 29/12/2016 on proceeding sheet directed the Respondent PIO to furnish information to the Appellant within 15 days.
6. It is further seen that the PIO, vide letter No.MMC/Engg/RTI/266/2017 dated 10/01/2017 has subsequently furnished the information after the directions of the First appellate Authority. The PIO has informed the Appellant that With respect to point No.1 and 2 regarding Copy of the Stoppage Order and Copy of the noting sheet the information was enclosed; With respect to point No 3 the same is as point no 1, with respect to point No.4 it was informed that the Concerned officials are of the Engineering Section; With respect to point No.5 the copy of the reply submitted by Geetabala M. Naik Parulekar was enclosed; With respect to point No.6 it was informed that the information sought is in the form of question.....

.....and hence does not come under the definition of "Information" and hence cannot be furnished; With respect to point No.7 the list was enclosed and in point No.8 the PIO informed that no such list is maintained and to inspect the inward register maintained by this Council; In point No.9 it was informed that no such list is maintained and in point No.10 it was informed that as per the records available the Alignment Certificate is not yet issued by the office.

7. The Appellant being aggrieved that the FAA has not disposed off the order within the mandatory 45 days period and also the PIO has not furnished information within the stipulated 30 days period has thereafter filed a Second Appeal before the Commission registered on 07/12/2016 and has prayed to direct the PIO to furnish correct information free of charges and to invoke section 20(1) against the Respondent PIO for not furnishing information within the specified time frame and to take steps for implementing section 4(1)(a) and 4(1)(b) and other such reliefs.
8. **HEARING:** This matter has come up before the Commission on several previous occasion and thus taken up for final disposal. During the hearing the Appellant is absent. The Respondent PIO is represented by APIO, Shri Vinay Agarvadekar.
9. **SUBMISSIONS:** The APIO submits that after receiving the RTI application the former PIO, Shri Uday Salkar inadvertently and in good faith gave a reply vide letter No.MMC/EST/RTI/8269/2016 dated 23/09/2016 stating that information cannot be sought on two or many subjects in one RTI application and hence did not provide the information. It is further submitted that this mistake has been corrected and pursuant to the directions of the FAA, the PIO has by another letter No.MMC/Engg/RTI/266/2017 dated 10/01/2017 furnished the information as available in the records on all 10 points of the RTI application dated 22/08/2016. It is also submitted that the former PIO, Shri Uday Salkar has retired from service on 28/02/2017. ...4

10. **FINDINGS:** The Commission after perusing the material on record and hearing the APIO finds that the mistake made by the PIO in issuing letter No.MMC/EST/RTI/8269/2016 dated 23/09/2016 and not providing information has been corrected by the Order of the FAA dated 29/12/2016 wherein directions were issued to the PIO to furnish information to the Appellant and it is seen that the information as available has been furnished by the PIO vide letter No.MMC/Engg/RTI/266/2017 dated 10/01/2017 on all 10 points.
11. **DECISION:** The Commission accepts the submission of the APIO that the former PIO had inadvertently and in good faith not furnished information as per reply vide letter No MMC/EST/RTI/8269/2016 dated 23/09/2016. As the PIO acted in good faith, no action can be taken as per section 21 which gives Protection of action taken in good faith. Further as the said PIO, Shri Uday Salkar has since retired from service on 28/02/2017, the Commission is unable also take any punitive action against the said PIO. Consequently the prayer of the appellant to invoke section 20(1) against the PIO for not furnishing information within the specified time frame stands rejected.

In view of the above discussion, Nothing further survives in the Appeal case which accordingly stands disposed.

The Public authority is directed to take steps for implementing section 4(1)(a) and 4(1)(b) as soon as possible.

With these directions 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