

**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. 42/2019/SIC-II**

Shri Leslie De Souza,  
H. No. E/B 158,  
Opp. Court, Altinho,  
Mapusa – Goa.

... **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 : 09-04-2019

Date of Decision : 09-04-2019

**O R D E R**

1. **Brief facts of the Case** are that the Appellant has filed a Second Appeal before the Commission registered on 19/02/2019 being aggrieved with the fact that although he had filed an RTI application dated 21/11/2018 u/s 6(1) seeking information from the Respondent PIO, no reply nor any information has been furnished by the PIO as per section 7(1) even after sending reminder on 15/01/2018 and further on filing the First appeal as per 19(1), the First Appellate Authority (FAA) has not passed any order and as such has prayed to direct the Respondent PIO to furnish information and to impose penalty and other such reliefs.
2. **HEARING:** This matter is taken up for final disposal. During the hearing the Appellant Shri. Leslie De Souza is present alongwith his son Mr. Jonathan De Souza. The Respondent PIO, is represented by Shri Vyankatesh Sawant, Municipal Engineer II, MMC, Mapusa.
3. **FINDINGS:** The Commission on perusing the material on record indeed finds that the First Appellate Authority (FAA) has not passed any Order in the appeal case although the Appellant had filed a proper First appeal as per 19(1) dated 29/01/2019. ..2

4. The FAA being a quasi judicial body should have applied his mind and decided the First Appeal under the RTI Act. The Commission notes with serious concern that such a serious 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, Mapusa Municipal Council.
5. The FAA is hereby called upon by this Commission to explain the reason for the failure to discharge his duties which he is legally bound as per the RTI act 2005. The FAA is directed to remain present personally before the Commission with his reply on 29<sup>th</sup> May 2019 at 11.30am .
6. **DECISION:** As per the RTI act 2005, a Second Appeal u/s 19(3) of the RTI Act 2005 lies against the Order / Decision of the First Appellate Authority (FAA). As there is no Order passed by the FAA, the Commission without going into the merits of the appeal case remands the matter back to the First Appellate Authority (FAA).
7. The FAA is directed to issue fresh notices to both the Respondent PIO and the Appellant within 15 days of the receipt of this order in any case latest by 14<sup>th</sup> May, 2019. The FAA shall after hearing the parties decide the First Appeal on merits by passing an appropriate speaking order. Needless to say that 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.
8. 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. If the FAA comes to a conclusion that the appellant should be supplied information by the PIO, then he may either i) pass an order directing the PIO to give such information to the appellant or ii) he himself may give information to the appellant while disposing off the First Appeal.

9. It is made clear that as the PIO has not given a reply as per 7(1) to the RTI application within mandated time period, the FAA may decide to furnish the information free of cost as per law.
10. It is open to the Appellant 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 Complaint 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**