

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

CORAM: Shri Juino De Souza : State Information Commissioner

Appeal No: 58/2019/SIC-II

Shri Shrikant V. Gaonker,
FA 501/505 Sinari Apartments,
Near Datta Mandir, Patto,
Ribandar - Goa. 403 006.

.... Appellant

v/s

1. Public Information Officer,
Shri Pandurang Mayanath,
O/o City Corporation of Panaji,
Municipal Bldg. Panaji Goa 403 001.

2. The First Appellate Authority
Shri Ajit Roy, IAS
Commissioner,
City Corporation of Panaji, Panaji – Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 27-06-2019

Date of Decision : 27-06-2019

O R D E R

1. **BRIEF FACTS** of the case are that the Appellant vide an RTI application dated 07/09/2018, sought certain information under Section 6 (1) of the RTI Act. 2005 from the Respondent PIO, O/o The Commissioner City Corporation of Panaji, Panaji-Goa. The Appellant *inter alia* is seeking information regarding (1) occupancy certificate dated 15/04/2016, of flats of the Sinari Apartments Building. (2) How many applications are received after 31st March 2018 for transfer flats of Sinari Apartments Building and if any such applications are pending for transfer as on date. (3) provide names and house number of all flat owners of Sinari Apartments Building who have paid their house tax for the financial year 2016-17, 2017-18 and 2018-19 and furnish the copies of receipt issued for house tax paid / received by CCP. (4) Provide the names and house numbers of all flats of Sinari Apartments Building who have not paid tax for year 2016-17, 2017-18 and 2018-19. (5) How many Agreement of Sale received by CCP after 15/04/2016 for sale/transfer of flats at Sinari Apartments Building. And other related information contained in the RTI Application therein. ...2

2. It is seen that the PIO vide letter no. 2/136/A/RTI/CCP/2018-2019/6011 dated 27/09/2018 within mandated 30 days period has furnished information on all seven points.
3. Not satisfied with the reply of PIO and finding that some information furnished is contradictory, false, incorrect and also incomplete the Appellant thereafter filed a First Appeal dated 13/11/2018 and the First Appellate Authority (FAA) after issuing notice to the respective parties vide an Order dated 17/12/2018 disposed the First Appeal by holding that the Appellant's claim is partially true regarding answers of two different questions in the same application as they give conflicting details after going through the documents for date/transfer of property and it is clear that Sinari Developer is the arising entity and not Dinesh Sinari.
4. The FAA has reprimanded the PIO asking him to be more cautious while giving replies to RTI Applications, however has in his Order also stated that the since PIO is not an expert to legally examine everything, at least proper due diligence is expected from PIO and reply of RTI application should always be as per the available record. The FAA in his Order has advised the PIO to take punitive disciplinary action against those who provide misleading information.
5. Being aggrieved that no action has been taken by the PIO, despite the order of the FAA, the Appellant subsequently approached the Commission by way of Second Appeal u/s 19(3) of the RTI act 2005 registered on 07/03/2019 and has prayed that the PIO and the FAA be directed (1) to furnish accurate/correct information as state in roznama of the case (2) to pass speaking written order in each and every appeal brought before the First Appellate Authority and furnish copy of the each such Order in Appeal, free of cost to every appellant making First Appeal to the FAA (3) to direct the Respondents to pay compensation of Rs.10,000/- to the Appellant for giving inaccurate, in complete, false or misleading information.

6. ..(4) to reprimand the Respondent and impose appropriate penalty on the Respondents, as per Section 20 of the RTI Act, for their failure in their duties & responsibilities; (5) To issue directions to the concerned officers to initiate disciplinary action against those erring officials, who have deliberately given wrong, inaccurate, incomplete and misleading information. (6) To direct the concerned Authorities to conduct proper training for its officials on the RTI Act, 2005 on the urgent basis and (7) to issue direction or recommendations as deem fit in interest of justice.
7. **HEARING:** The Appellant Shri Shrikant V. Gaonker is present in person. The Respondent PIO and FAA are both absent.
8. **SUBMISSION:** The Appellant submits that the information furnished by the PIO was incorrect, incomplete and misleading and that he filed the First Appeal and that the First Appellate Authority (FAA) vide an Order dated 17/12/2018 has pulled up the PIO, but not issued any direction to the PIO to furnish correct information and on the contrary has advised the PIO to take disciplinary action against those who provide misleading information.
9. **FINDINGS:** The Commission after hearing the submission of the Appellant and perusing the material on record finds that the Appellant in his RTI application dated 07/09/2018 had sought certain information in 'question form' by asking questions such as 'How many' and asking such questions do not come under the purview of Section 2 (f) of the RTI Act. It is further seen that the PIO nevertheless has furnished information at all seven points.
10. Also the PIO has furnished information at point No.1 as per the format designed by the Appellant himself, although there is no provision for furnishing information in a particular format.

11. The Commission also finds that FAA has also not issued any directions to the PIO to furnish correct and complete information and perhaps the FAA was satisfied with the information furnished by the PIO. It is also seen that the observations of the FAA regarding conflicting details furnished by the PIO was arrived at after inspecting and verifying certain sale and transfer documents and which were not part of the information sought by the RTI applicant and certainly the FAA has exceeded his brief.
12. **DECISION:** As stipulated in the RTI Act the role of the PIO is to furnish information as is available in the records. The PIO is not called upon to create information or do calculation or research or analysis so as to satisfy the whims and fancies of the Appellant. Also the PIO is not called upon to answer questions. The Commission finds that the PIO has furnished information as was available in the records vide his reply dated 27/09/2018 within 30 days on all the 07 points which is the mandate of the RTI act.
- As information as was available has been furnished by the PIO Nothing further survives in the Appeal case which accordingly stand disposed.**
13. The Appellant also raised the issue, that the FAA has not given the order copy free of cost and he had to apply and has obtained the copy after making payment. The Commission finds this is improper and unjust. The FAA should have ensured that the order copy is given free of cost and dispatched by post at the address of the appellant and which was not done. The FAA is hereby directed to be cautious in the future while dealing with first appeal cases.

With these observations 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

