

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 129/2019/SIC-II

Mr. Francisco Antonio Xavier Fernandes,
House No. 113, Amblai,
Panchwadi, Ponda – North Goa.

..... Appellant

v/s

1. The Executive Engineer,
Public Works Department,
Office of the Executive Engineer,
Division XVIII (Roads),
Ponda – North – Goa.

2. First Appellate Authority,
PWD Office, Altinho, Panaji,
Tiswadi, North Goa.

... Respondents

Relevant emerging dates:

Date of Hearing: 09-12-2019

Date of Decision: 09-12-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 22/11/2018 sought certain information from the Respondent PIO, Executive Engineer, Work Div.XVIII, PWD, Ponda Goa. The information pertains to original document having inward & outward register at Sr. No.7101 dt. 15/01/2007 of Shri. Subhash Shirodkar, RDA.
2. It is seen that the PIO vide reply No.12/1/2018/PWD/Div.XVIII(R) ADM/106 dated 21/12/2018 informed the Appellant to inspect the available documents from the office of the Assistant Engineer SD-I, Ponda-Goa on 27/12/2018. It is further seen that on 27/12/2018 the Appellant took inspection and found that there was a Xerox copy and no original document of the information sought and as such the Appellant filed a first Appeal before the First Appellate Authority on 24/01/2019 and the FAA vide an Order dated 05/03/2019 disposed the First Appeal by observing thus: "As the Respondent is ready to issue the available copy of the letter to the Applicant free of cost and the same has been informed to the Appellant. It is such that there is no lapse on the part of the Respondent and the case is disposed off".

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3. Being aggrieved with the Order of the First Appellate Authority (FAA) the Appellant thereafter has approached the Commission by way of Second Appeal registered on 07/05/2019 and has prayed that only a Xerox copy of information is available with the public authority and as to why and how the original copy is missing and is not available and has prayed to direct the PIO to make available the original copy of the letter of Shri. Subhash A. Shirodkar, Minister for RDA having inward/outward Register at Sr.No.7101 dated 15/01/2007 on priority basis and for penalty and other such reliefs.
4. **HEARING:** This matter has come up before the Commission on four previous occasions' and hence by consent taken up for final disposal. During the hearing the Appellant is represented by his son Mr. Richard Fernandes and Advocate Zulfia Desai whose letter of authority is on record. The Respondent PIO is represented by Adv. Atish Mandrekar who is present along with Shri. Anand Fadte Gaonkar, Technical Assistant, with the public authority. The FAA is absent.
5. **SUBMISSIONS:** At the outset the Adv. Atish Mandrekar submits that the original document sought for by the RTI applicant after conducting inspection of the inward and outward is not available with the public authority and that a xerox copy of the same is available in the records. Adv. Atish Mandrekar points out to a reply dated 10/10/2019 which is already on record of the Commission and which copy is also received by the Appellant.
6. Adv. Atish Mandrekar states that in that reply it is already mentioned in paragraph four that this office has only xerox copy and the original is not in available with this Division at PWD Ponda and Respondent No.2, FAA in his order has stated there is only one original priority letter and its copies were sent to 16 work departments and as such the original priority letter may be gone to any of the work Department of which there is no record and that there is no lapse on the part of the Respondent.

7. Adv. Zulfia Desai for the Appellant submits that it is necessary to hold an enquiry as to how an original document can be missing from a Government Department. She points out to the written argument filed and requests the Commission to conduct the enquiry while also referring to a citation "Citizen of India V/s Vishwas Bhamburkar".
8. **FINDINGS:** The Commission after hearing the submission of the respective parties and perusing the material on record at the outset expresses surprise as to how an original document can go missing from Government Department.
9. However in view that Adv. Atish Mandrekar has explained the reason as to why the original letter issued by Shri. Subhash Shirodkar Minister for Panchayat Raj RDA and which was inwards in the office of the Executive Engineer Div.XVIII under entry No.7101 dated 15/01/2007 is not available and it is because the said original copy along with Xerox copies was sent to 16 work Department and perhaps the original may have gone to any one of those Department and thus is not available in the records of the concerned public authority at PWD-PONDA.
10. Further in view that the Xerox copy of the said original letter has been produced before the Commission and which is taken on record and also one copy is served on the Appellant it is sufficient to prove the bonafide that there is no malafide intention on the part of the PIO to deny the original document which is not available in the record.
11. **DECISION:** As stipulated in the RTI Act, the role of the PIO is to furnish information as is available with the public authority. The PIO is not called upon to create information or to answer as to why and how the original letter has gone missing or to analyse or do research to satisfy the whims and fancies of the Appellant.

12. The Appellant has prayed for an enquiry. In this Connection, the Commission is of the considered opinion that holding an enquiry as to why an original document has got missing will be an exercise in futility more so as it is already pointed out that the original copy of the letter along with Xerox copies was sent to 16 work Departments and it may be that the original may have gone to any one of these Departments and thus holding an enquiry will not serve any purpose and a such the prayer of the appellant for holding an enquiry stands rejected.

No intervention is required with the Order of the FAA.

13. In view that a Xerox copy of the said letter has been furnished to the Appellant before the Commission nothing further survives in the Appeal case which accordingly stand disposed.

14. The PIO is directed to authenticate the Xerox copy 'as true copy of the original' and furnish the same to the Advocate for the Appellant within one week of the date of receipt of this Order. The Commission accordingly directs the Advocate for the Appellant to approach the office of the PIO on any working day and collect the same, if she so desires.

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**