

# GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

**Shri Prashant S. P. Tendolkar,**  
State Chief Information Commissioner

**Appeal No.13/2019/CIC**

Dr. (Ms.) Kalpana V. Kamat,  
Caldeira Arcade, 1<sup>st</sup> floor,  
'B' Block, Bhute Bhat,  
Vasco da Gama – Goa.  
403802.

**.....Appellant**

**V/s**

- 1) Public Information Officer,  
Mormugao Municipal Council,  
Vasco – Goa.
2. First Appellate Authority,  
Mormugao Municipal Council,  
Vasco – Goa  
403802.

**.....Respondents**

**Filed On: 15/01/2019**

**Disposed On: 31/07/2019**

## **1) FACTS IN BRIEF:**

- a) The appellant herein by her application, dated 03/10/2018 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought inspection of files from the respondent no.1, PIO before seeking the information from files. The inspection was sought of all details, documents and files of all properties falling under Nayak Real Estate, present in respondent authority, all house receipt, business licenses. The appellant has also sought further information in respect of action taken report and copy of certain order.
- b) The said application was replied on 31/10/2018. Which according to appellant was received on 13/11/2018. However according to appellant the inspection as sought was not granted and hence the appellant filed first appeal to the respondent no.2, on 12/11/2018 being the First Appellate Authority (FAA).

Sd/-

...2/-

- c) The FAA by order, dated 12/12/2018 allowed the said appeal and directed PIO to furnish the information at points 1, 2, 3, & 4 within 5 days and that the request for information at point 5 was informed as forwarded to traffic cell.
- d) The appellant has alleged that the information as sought is not furnished and therefore has landed before this commission in this second appeal u/s 19(3) of the act.
- e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 11/03/2019 filed his reply to the appeal. In spite of opportunity to parties, neither the PIO nor his advocate appeared. No written submission filed. The submissions of appellant were heard.

**2) FINDINGS:**

- a) Considered the pleadings of parties and the documents. On perusal of the application filed u/s 6(1) of the act by the appellant it is seen that the appellant therein has requested for inspection of files before seeking information. The appellant has filed on record a copy of the letter from PIO, dated 31/10/2018 asking the appellant to contact certain LDC's for the purpose of inspection of files. The date of dispatch of said letter is not clarified in appeal as to when it was dispatched. But from the said letter it is evident that the inspection as sought was offered to appellant.

It is the case of appellant that when she attended the office for inspection the concerned staff who were supposed to grant inspection were not available and also that one of them who was present refused to give inspection in the absence of the PIO. This fact is on record per the appellant's memo dated 23/11/2018.

Sd/-

...3/-

- b) In the first appeal filed by appellant the FAA directed the PIO to furnish the information except at point (5), which was transferred to traffic cell. The appellant has filed on record the reply of PIO pursuant to said order dated 04/01/2019. As per said reply the information at points (1), (2) and (3) is purportedly furnished by enclosing copies, when as per the application filed by appellant she wanted only the inspection thereof. The appellant alleges that said information so supplied is incomplete and misleading. Besides a bare statement, appellant has not clarified as to how it is incomplete and misleading.
- c) From the reply of PIO it can be seen that the PIO has misinterpreted the scope of request of information. The PIO ought to have granted inspection of the records pertaining points (1) to (3).

Regarding point (4) the copies are furnished and the appellant has not elaborated as to how the copies of the records furnished at point (4) is false or misleading.

The request for point (5) is duly transferred in respect of which no fault can be found.

The point (6) is appropriately replied and not granted as such document is not in existence.

- d) Considering the above facts and circumstances I find that the request for information at points (4) to (6) are appropriately dealt with by PIO. However in respect of points (1) to (3) the PIO has not granted the inspection as was sought.
- e) The appellant has sought for imposition of penalty on the PIO. considering the ratio laid down by Hon'ble High Court of Bombay at Goa in case of *penalty (Writ petition No.*

Sd/-

...4/-

205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others ) has observed:

**"11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."**

In the present case in his logic the PIO has offered the information on 30/10/2018. I find that the delay cannot be held as willfull or deliberate. Hence such request for penalty cannot be granted, and no grounds exist in the present case.

- f) In the background of the above facts, I proceed to dispose the above appeal with the following:

**O R D E R**

Appeal is partly allowed. The PIO is directed to grant inspection of the records pertaining to points (1) to (3) of the appellants application dated 03/10/2018 free of cost and against acknowledgement by appellant. Such inspection shall be under the personal supervision of PIO by taking assistance of the staff as may be required. The date of inspection shall be fixed within 10days from the date of receipt hereof by the PIO. Order be communicated to parties.

Copy of the order be granted to parties free of cost.

Proceedings closed.

Sd/-

**(Shri. P. S.P. Tendolkar)**

Chief Information Commissioner  
Goa State Information Commission  
Panaji –Goa

