

GOA STATE INFORMATION COMMISSION
Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.162/2019/CIC

Shri Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Khorlim, Mapusa Goa
403507.

..... Appellant

V/s

- 1) The Public Information Officer,
The Main Engineer-GR.I(Diniz D'mello)
MMC, Mapusa Goa. 403507.
- 2) The First Appellate Authority,
The Chief Officer,
Shri Clen Madeira,
MMC, Mapusa -Goa.

..... Respondents.

Filed on: 04/06/2019

Disposed on:16/12/2019

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 11/02/2019 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under several points therein.
- b) The said application was not decided by the PIO within time and as such deeming the same as refusal appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).
- c) The FAA failed to decide the appeal in time and hence appellant has landed before this commission in this second appeal u/s 19(3) of the act.
- d) Notices were issued to the parties, pursuant to which PIO appeared. The PIO on 24/09/2019 filed a reply to the appeal. It is the contention of PIO therein that the

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application was marked to technical section and was received by Smt. Anuradha Natekar L.D.C. on 11/02/2019. The PIO admitted that the first appeal was not decided within the stipulated time. Further according to PIO the dealing hand has not furnished the inspection nor complied the reply. The PIO has further lamented that vide order dated 11/03/2019 one Shri Venkatesh Sawant was directed to deal with the RTI matters pertaining to engineering section and that he has not furnished the information. PIO prayed for issuance of notice to Shri Venkatesh Sawant.

- e) This commission issued noticed to Smt Anuradha Natekar, who according to PIO has received the application on 11/02/2019, and called upon her to file her say. However she failed to file any say inspite of granting opportunity. In such circumstances this commission has no option than to decide the matter based on records.

2) FINDINGS:

- a) Perused the records and considered the contentions of the appellant. It is not in dispute that the application of the appellant u/s 6(1) of the act is not decided. There are no grounds set forth to reject the information. In these circumstances, I find no grounds to reject the request of the appellant herein as far as the information is concerned.
- b) According to the PIO the application was sent to technical section and was received by Smt. Anuradha Natekar. However it is not clear as to in what capacity it was sent. I find no correspondence/letter specifically seeking information from her as a deemed PIO. Considering the requirements of section 5(4) of the act for any person to be named as deemed PIO, there should be a specific demand to

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furnish the information either in the letter or by office order. I do not find any such demand by PIO from said Smt. Natekar to furnish information. In these circumstances this commission is unable to attribute any lapse to her, it is for the respondent authority to investigate at the office level and find out the role of said Smt. Natekar in delaying information and then initiate appropriate actions as per her service conditions.

- c) Regarding the contention of PIO that by order, dated 11/03/2019, one Shri Venkatsh Sawant was called upon to furnish the information, it is to be noted that such order is issued after thirty days from the date of the application u/s 6(1) and the same was received by concerned person on 12/03/2019. As such said order dated 11/03/2019 has no relevancy for this case.
- d) It is also seen that the FAA has failed to decide the first appeal within the time as stipulated u/s 19(6) of the Act or even within the extended time thereunder. It is also seen that in several other matters pertaining to this respondent authority the FAA has failed to decide first appeals as required under the act. This commission takes a note of the same, as such a practice is not in conformity with the provisions of The Right to Information Act 2005. The same are therefore required to be reported to the appropriate authorities alongwith the suggestions as contemplated u/s 25(5) of the act.
- e) In the above circumstances this commission finds it appropriate to issue recommendation to the Director of Urban Development and Department of Personal to consider such practice of non deciding the first appeals by FAA as a

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dereliction of their duties punishable under the service condition of such incumbents.

- f) With the above findings and observations this commission disposes the above appeal with the following:

O R D E R

Appeal is allowed. PIO is hereby directed to furnish to the appellant the information sought by him vide his application dated 11/02/2019, free of cost, within fifteen days from the date of receipt of this order. This order be communicated to parties.

Copies of this order be also sent to (i) Director Urban Development and (ii) Secretary Personal for information. Said officers are hereby informed that the practice of the First Appellate Authority herein, in not deciding the first appeals within time, is not in conformity with section 19(6) of the Act. Any deviation from adhering to the above requirements be also considered as dereliction of duties of the concerned officer.

With the above order proceedings stands closed.

Sd/-
(Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji -Goa