

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

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**Appeal No: 207/2017/CIC**

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

..... **Appellant**

**V/s**

- 1) The Public Information Commission,  
Mapusa Municipal Council,  
Mapusa –Goa 403507.
- 2) The First Appellate Authority,  
Mapusa Municipal Council,  
Mapusa –Goa 403507.

..... **Respondents.**

**Filed On: 05/12/2017**

**Disposed On: 20/02/2019**

**1) FACTS IN BRIEF:**

- a) The appellant herein by his application, dated 22/06/2017, filed u/s 6(1) of the Right to Information Act 2005 (Act for short) sought certain information from the respondent No.1, PIO in the form of certified copies of entire documents submitted by Smt. Geetabala Naik Parulekar and relied by Municipality for providing no objection certified dated 03/03/2005.
- b) The said application was replied on 21/07/2017 informing appellant that the said records are not readily available. However according to appellant the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA), which issued notice but failed to dispose the first appeal.
- c) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

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d) Notices were issued to the parties pursuant to which they appeared. The PIO on 18/04/2018 filed pleading, titled as an affidavit. On 09/05/2018, the PIO filed another affidavit. The appellant filed his written arguments on 17/07/2018. Subsequently on 10/10/2018 appellant filed his written arguments on the affidavit filed by PIO.

**2) FINDINGS:**

a) Perused the records and considered the submissions of appellant. In reply to the appellants application u/s 6(1) of the act, the PIO has replied on 21/07/2017 informing appellant that said information is not readily available as the records are old. It is to be noted that the records pertain to year 2005 and information is sought after about 12 years. The appellant was aggrieved by said reply and filed first appeal, which according to him is not disposed.

b) The PIO has filed a reply titled as affidavit. However the same has no sanctity of an affidavit as it was not sworn. Subsequently on 09/05/2018 the PIO has filed an affidavit. Vide his said affidavit the PIO has stated that the said records are not available in the office. It is further contended that efforts were made to trace the files but the same could not be traced.

c) Rule 5(i) of the Goa State Information Commission Appeal Procedure Rules 2006, grants powers to this commission to take evidence in the form of affidavit. Thus the said affidavit can be considered as evidence on the fact of non availability.

d) The appellant in his written arguments and the subsequent clarification has submitted that he believes that the PIO has filed false affidavit as has not submitted any documentary evidence as a proof of efforts. The appellant has

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also raised certain objections for the absence of the FAA for hearing. According to appellant non traceability of the records is lapse on the part of authority to preserve records. The appellant has relied upon the order passed by this commission. The appellant has prayed for a direction to respondent to conduct inquiry on the missing file. Vide his clarification he has raised doubts over the PIO's affidavit regarding efforts made to trace the file.

e) The PIO has filed an affidavit. To discard the said affidavit, what could be considered is only a documentary evidence. The appellant though contends that the affidavit may be false, at no point of time has produced any evidence to show that the documents of which copies are sought, were at sometime were in existence. There is nothing on records to show that the PIO at any time prior to the application or thereafter has furnished copy of the same to any parties. The contention of appellant that no sufficient efforts were made are his belief. Thus I find no better evidence to hold that the documents as sought factually exist with public authority. I therefore find no grounds to discard or disbelieve the affidavit of the PIO.

f) Considering the above circumstances I hold that the PIO has responded to the appellants application u/s 6(1) appropriately. The said reply cannot be held as false or malafide. In the result I find no merits in the appeal. The same is therefore disposed with following:

**O R D E R**

The appeal is dismissed. Order be communicated to parties.

Proceedings closed.

Pronounced in open hearing.

Sd/-

**(Prashant S. P. Tendolkar)**

State Chief Information Commissioner

Goa State Information Commission

Panaji -Goa