

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.239/2018/SIC-II

Peter Paul D'Souza,
H.No. 63/2, Mainath Bhatti Vaddo,
Arpora Bardez,
Goa – 403 516

..... Appellant

v/s

1.Public Information Officer,
The Secretary,
Village Panchayat of Arpora-Nagoa,
Bardez - Goa, 403 516
2.First Appellate Authority,
Block Development Officer,
Mapusa - Bardez, Goa.

... Respondents

Relevant emerging dates:

Date of Hearing : 21-02-2019

Date of Decision : 21-02-2019

ORDER

1. **Brief facts** of the case are that the Appellant vide an RTI application dated 11/06/2018 sought certain information u/s 6(1) of the RTI Act, 2005 addressed to the PIO, Secretary V.P Arpora-Nagoa, Bardez-Goa. The information relates to the construction file of Mrs Rose R.P. De Souza r/o H.No. 63/2, Mainath Bhatiti Vaddo, Arpora –Nagoa, Bardez-Goa with the Panchayat inward No.1783 dated 16/10/2017.
2. The Appellant is *inter alia* is seeking information (1) Please provide me with the date the said file has been referred to the Panchayat lawyer for legal advice. (2) Please provide me with the name of the Panchayat Lawyer to whom the said file has been referred for legal advice. (3) Please provide me with the certified copy of the legal advice provided by the Panchayat Lawyer to the Panchayat of Arpora-Nagao as of date. (4) Please provide me with the details of the amount paid to the Panchayat lawyer by the Panchayat to obtain legal advice and also the amount paid to the Panchayat lawyer for the case under Sec.66(2) before the Dy. Director of Panchayat, Panaji-Goa in case No. DDPN/Arpora-Nagao/Bar/01/2018.

...2

3. It is the case of the Appellant that he received a reply from the PIO on 07/07/2018, stating that the information on all four points are not available and not satisfied with the reply of the PIO, the Appellant filed a First Appeal on 09/07/2018 and the First Appellate Authority (FAA) vide an Order dated 04/09/2018 directed the Respondent PIO to furnish the information within seven days and disposed the matter.
4. **HEARING:** During hearing Appellant Shri Peter Paul D'Souza is present in person. The Respondent PIO, Secretary V.P. Calangute is represented by Advocate S. Morajkar who is holding for Adv. Siddesh R. Prabhudessai.
5. **SUBMISSIONS:** The Appellant submits that he is only concerned with information at point No.3 which is to provide certified copy of legal advice, provided by Panchayat lawyer to the Panchayat of Arpora Nagoa Goa and which information he has still not received.
6. He further submits that pursuant to the Order of the First Appellate Authority, the PIO vide letter Ref.No. VP/AN/RTI/2018-19/1142 dated 17/09/2018 informed that with regards to point No.1 the information of date of submission of file to Panchayat lawyer for legal advice is not available and with regards to point No.3, the information of legal advice provided by the Panchayat lawyer as on date of the application is not available.
7. The Appellant reiterates such reply amounts to denial of information. The Appellant further submits that he is aware that on 05/03/2018 the said file was sent to the said concerned advocate for his advice and poses a question to the Commission as to how long can the file be retained by the Advocate for his legal advice? The Appellant prays that directions should be issued to the PIO to furnish the information at point No.3 immediately.

8. **FINDINGS:** The Commission after perusing the material on record and after hearing the submission of the Appellant finds that the PIO in his reply under Ref.No. VP/AN/RTI/2018-19/1142 dated 17/09/2018 has informed that the information on legal advice provided by the Panchayat lawyer as on date is not available.
9. The Appellant's argument by questioning as to how long can the construction file be retained by an Advocate for his legal advice cannot be dealt with by the Commission as per the provision of the RTI Act. The Commission cannot issue directives to the PIO or to the Panchayat's lawyer to expedite the pending file sent for legal advice by a particular date and which will be exceeding the brief.
10. As stipulated in the RTI act the role of the PIO is to furnish information as is available from the records. The PIO is not called upon to create information or to do research and answer questions as to how long can the file be retained by the lawyer for his legal advice.
11. **DECISION:** However the PIO is once again directed to verify from the records if the said construction file of Mrs Rose R.P. De Souza that was submitted for legal advice to the Panchayat lawyer has been returned back to the Panchayat and if so, to provide the information within 20 days of the date of receipt of the Order. If no information is available of the legal advice tendered by the said lawyer, then the PIO is directed to inform the Appellant accordingly also within 20 days of the date of receipt of the Order.

With these directions the Appeal case accordingly stands disposed.

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