

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.24/2019/CIC

Shri Jawaharlal T. Shetye
H.No. 35, ward No 11,
Khorlim Mapusa-Goa.

....Appellant

V/s

- 1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa-Goa
- 2) The First Appellate Authority
The Chief Officer (Mr Clen Madeira),
Mapusa Municipal Council
Mapusa –Goa 403507.

.....Respondents

Filed on: 06/02/2019

Disposed on: 26/07/2019

1) FACTS IN BRIEF:

a)The appellant herein by his application, dated 30/08/2018 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)According to appellant said application was not responded to 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 within the stipulated time and the appellant has therefore landed before this Commission in this second appeal u/s 19(3) of the act.

Sd/-

...2/-

d) Notices were issued to the parties, pursuant to which they appeared. The PIO on 29/05/2019 filed his reply to the appeal. Alongwith the reply he filed a copy of reply dated 12/10/2018 purportedly the response u/s 7(1) of the act.

e) It is the contention of PIO in his said reply filed to this appeal that one Smt. Resha Raut Desai was the then PIO on the date of order passed by FAA. That the then PIO Shri Venkatesh Sawant had furnished the information on 12/10/2018. According to him delay caused in non furnishing in time is due to non furnishing of information by then PIO. The PIO has prayed for leniency.

2) FINDINGS:

a) Perused the records and considered the submissions. The application was filed on 30/08/2018 and hence the time for response ends on 30th September 2018. The PIO has responded the same on 12/10/2018. There is a delay of about 11 days.

b) The appellant has urged that he was not served with any response till date. In rebuttal of the said stand the PI has relied upon the affidavit of Shri Rajendra S. Bagkar, UDC who has affirmed that the said letter dated 12/10/2018 was posted. The copy of the despatch register is also filed on record. The said affidavit of Shri Rajendra Bagkar is not controverted by the appellant. In these circumstances, I have no hesitation to hold that the said letter was despatched on 12/10/2018.

Sd/-

...3/-

c) No doubt that the said response is delayed by about 11 days if referred to section 7(1) of the act. However such delay being marginal is condonable as is the ratio laid by Hon'ble High Court of Bombay at Goa in Writ Petition No:704 of 2012 (*Public Authority and Others V/s Shri Yeshwant Tolio Sawant*). Besides this Commission takes note of the fact that the appellant herein has several RTI applications filed to the respondent authority.

d) It is the next contention that the FAA has failed to dispose the first appeal within period of 45 days as was necessary under the act. I find force in such submissions. The FAA inspite of notifying in this appeal has also not filed any reply to respond to the said allegations of appellant. Such a lapse on the part of FAA is certainly dereliction in his duties as FAA and the same are required to be reported to the appropriate Authorities with recommendations. The Commission shall do the same as such an approach of FAA is not in conformity with provisions and the spirit of the Act.

e) In the above circumstances I find that interest of Justice would be achieved with the following:

ORDER

The appeal is dismissed. However the right of appellant to seek further information are kept open. Order be communicated to parties.

Proceedings closed.

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