

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.262/2018/CIC

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

V/s

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

Filed On: 09/11/2018

Disposed On: 12/06/2019

O R D E R

- 1) The appellant herein by his application dated 16/04/2018 filed u/s 6(1) of The Right of Information Act 2005 (Act for short) sought certain information from the respondent PIO. The said application contained a note by the appellant that in view of some earlier act of the respondent PIO, appellant should be furnished with the present information within 48 hours of the application.
- 2) Having failed to receive the information within 48 hours the appellant filed first appeal to the First Appellate Authority (FAA) on 27/04/2018, which appeal according to appellant is not disposed.
- 3) The appellant has thus approached the commission with this second appeal u/s 19(3) of the act.

Sd/-

...2/-

4) On going through the pleading of the appellant it is noticed that the though the appellant has filed the first appeal it appears to be premature and hence the present appeal if decided finally would result in miscarriage of justice. Hence before going to the merits of the appeal I find it necessary that the maintainability of this appeal vis a vis the first appeal is required to be decided.

5) Section 7(1) and section 7(3)(a) of the acts reads:

7. Disposal of request.____(1) *Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in section 8 and 9:*

2).....

(3) *Where a decision is taken to provided the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send intimation to the person making the request, giving____*

(a) the details of further fees representing the cost of providing the information as determines by him, together

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with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section.

6) Section 19(1) of the act reads:

19. Appeal.— (1) *Any person who does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:*

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- 7) In the present case the appellant has filed the first appeal within 11 days of filing his application u/s 6(1) which is before such expiry of period of 30 days. Thus apparently the first appeal was premature and without giving the PIO the statutory period of 30 days to decide on the application as required u/s 7(1) or (3)(a) of the act.
- 8) It appears that the appellant has taken assistance of his note in his application u/s 6(1). Said note demands the information within 48 hours. By said “note” the appellant

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has limited the time for deciding the application. Section 7(1) of the act requires the PIO to decide application within 30 days. Such a statutory period cannot be taken away.

No doubt the proviso to section 7(1) requires the disposal of request within forty eight hours, but such a privilege is granted only in respect of information concern for life and liberty of a person. In the present case the appellant has not made out any case to invoke such exception. Just because public authority has dealt with earlier application in a speedy way, cannot by itself grant powers to seeker to claim urgent information as a matter of right.

- 9) Considering the above situation and having held that no urgency was involved to decide the application of appellant I find that the appeal to FAA was filed before expiry of statutory period of thirty days. Thus the same is not maintainable being premature. Consequently the present second appeal is also vitiated and hence the same is not maintainable.
- 10) In the above circumstances without going to the merits of the appellant's application u/s 6(1), as the present appeal is not maintainable, the same is dismissed.

Order to be notified.

Proceedings closed.

Pronounced in open hearing.

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