

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

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

**Appeal No. 298/2019/CIC**

Shri Sidhesh B Naik,  
Hno.1611/33, Orda Vaddo,  
Candolim Bardez-Goa. .... Appellant.

V/s

- 1) The Public Information Officer,  
Zonal Agricultural Officer,  
Dhuler Mapusa-Goa.
- 2) The First Appellate Authority,  
Directorate of agriculture,  
Tonca Caranzalem, Tiswadi Goa .... Respondents.

Filed on : 27/09/2019

Disposed on:14/11/2019

**1) FACTS IN BRIEF:**

a) The appellant herein by his application, dated 25/04/2019 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought information from the Respondent No.1, PIO in the form of certified copy of letter “No. DC/SDO/MAP-20/2019/1417 dated 25/09/2019”. The said request was filed by referring to another response of PIO bearing No.3/1/RTI/2018-19/ZAO-MAP/1768 dated 26/03/2019 to appellant’s another RTI Application dated 19/03/2019.

b) The said application dated 25/04/2019 was replied on 30/04/2019 calling upon appellant to pay fees of Rs.6/-. 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).

Sd/-

...2/-

c) The FAA by order, dated 19/07/2019, dismissed the said appeal.

d) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 06/11/2019 filed reply to the appeal along with the copy of the information as supplied and other documents. FAA also filed his reply.

f) Submissions of the parties were heard. In his submissions the PIO submitted that by his application, dated 25/04/2019, he has sought certified copy of the letter dated "25/03/2019" as was referred to by the PIO in his earlier letter, dated 19/03/2019 as addressed to Dy. Collector, Mapusa. According to appellant what is furnished today is the letter dated 19/03/2019. Hence according to him he is not furnished with the document as was sought by him.

Appellant further submitted that the office of the Zonal Agriculture office does not have a sign board displaying the names of PIO and FAA.

g) The PIO in his submissions submitted that appellant on earlier occasion had filed an application under RTI which is dated 19/03/2019. In response to said letter he was furnished with a copy of his office letter, dated 19/03/2019 addressed to Dy. Collector Mapusa and that in that letter the date of the letter under reference therein was wrongly stated as '25/03/2019'. He pointed out that when main letter itself is dated 19/03/2019, the same cannot refer therein to any letter of a subsequent date i.e. 25/03/2019 as it can never exist then. PIO has also filed on record copy of a letter from respondent

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Authority to Dy. Collector Mapusa seeking correction of a typographical error in date. Thus according to him there is no letter dated 25/03/2019 but the letter which concerns the subject is the letter dated 19/03/2019, which is furnished to appellant.

PIO further pointed out that in response to his letter, dated 25/04/2019, the appellant was called upon to pay the fees on 30/04/2019, within the stipulated date but he failed to pay the same till 01/10/2019 on which date he stealthily paid the same. According to him said amount was wrongly accepted by the clerk. PIO has filed on record the copy of the receipt dated 01/10/2019 as also memo issued to the concerned clerk for wrongly accepting the fees and the reply of the clerk.

h) In his submissions FAA submitted that the First Appeal was filed on 29/05/2019. Notice for hearing was issued on 24/06/2019 and was finally disposed on 28/06/2019. The FAA has filed on record the copies of notice, dispatch register, order and the written statement filed by PIO, which interalia shows that the notice of appeal was issued inspite of which appellant failed to appear and that the required fees of information was not paid hence the appeal was dismissed.

**2) FINDINGS:**

a) Perused the records and considered the submissions. On analyzing carefully the sequence of events in the present case it is seen that the application of the appellant u/s 6(1) dated 25/04/2019, was responded by calling upon him to pay fees for information, as is required u/s 7(3)(a) of the Act. Thus the

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due date for furnishing the information as provided under said section 7(3)(a) would fall after the deposit of demanded fees. Before such date PIO is not liable to furnish the information Undisputedly the fees were not paid by appellant till the date of filing first appeal. Thus considering the extension of time available to PIO to furnish the information u/s 7(3) (a), the appellant had no cause to file first appeal. Thus the first appeal was premature and hence not maintainable. The FAA appears to have lost the site of the above fact.

b) As a consequence of the above extension and considering the undisputed fact that the fees were paid only on 01/10/2019, which is after filing of the present second appeal, this second appeal U/s 19(3) is also not maintainable being also premature.

Considering the above position, I find that there is a gross abuse of the process of law and hence the appeal does not deserve any further consideration.

c) Be that as it may even for academic consideration the appellant could make a grievance of not receiving information only after payment of fees, which is a mandate under the act. The appellant has not clarified in the appeal memo as to how he could secure the certified copy without payment of fees. Even if such copy is received the same cannot be held to be authentic or legally obtained for concluding that wrong information was furnished. The PIO has also filed on record the copy of letter, dated 18/10/2019, memo, dated 22/10/2019 issued to UDC and the reply of UDC dated

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23/10/2019 which lends support to the assumption that the appellant has obtained the information by not adhering to a legally approved procedure under the Act.

d) On further perusal of the proceedings of first appeal it is noted that inspite of notice, the appellant failed to proceed with it. Though in the present appeal memo appellant states that no notice was issued, the records speaks that the same was issued and received by the appellant. it was the contention of PIO before the FAA that the appellant has failed to pay the fees inspite of demand. Considering the above facts as also the non maintainability of the first appeal, I find no grounds to interfere with the orders of the FAA and the same is upheld.

e) It is the next contention of appellant that the respondent Authority has failed to display the sign boards. The PIO confirms the same with a clarification that the same were removed by the election officers during last election. Section 5 of the Act requires designation of PIO's and other Authorities under the Act. Such designation should be known to the citizen and hence the display of sign boards is required to be reinstated.

f) Considering the above circumstances, I find no merits in this appeal. However the PIO has furnished the information to the appellant after payment of the fees, though belated. The appellant has prayed for penalty against the PIO but considering the approach of the appellant in not complying with the demand for fees in time and premature filing of the first appeal and also further considering the principals of equity, I find no grounds to invoke my rights u/s 20(1) and 20(2) of the act to impose penalty.

Sd/-

...6/-

g) In the background of above facts and considering the circumstances explained above, I proceed to dispose the above appeal with the following:

**O R D E R**

Appeal is dismissed. Proceedings closed. Order be communicated to parties.

Sd/-

**(Shri. P. S.P. Tendolkar)**

Chief Information Commissioner  
Goa State Information Commission  
Panaji -Goa