

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal Nos: 50 & 51/2019/SIC-II

Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11
Khorlim, Mapusa – Goa.
403 507

.... **Appellant**

v/s

1. The Public Information Officer,
Mapusa Municipal Council,
Mapusa- Goa. 403 507

2. The First Appellate Authority,
The Chief Officer, (Mr. Clen Madeira)
Mapusa Municipal Council,
Mapusa- Goa. 403 507

.....**Respondents**

Relevant emerging dates :

Date of Hearing : 09-04-2019

Date of Decision : 09-04-2019

ORDER

S/ N	Appeal Nos.	Date of filing RTI Application	Date of reply of PIO	Date of filing First Appeal	Date of Order of FAA	Date of Second Appeal
1)	Appeal No. 50/2019/SIC-II	30/11/2018	No reply	07/01/2019	No Order	27/02/2019
2)	Appeal No. 51/2019/SIC-II	04/12/2018	No reply	07/01/2019	No Order	27/02/2019

1. The above two appeals pertain to one and the same parties and are having similar subject matter as such they are combined together and disposed by one common order.
2. **Brief facts of the Case** are that the Appellant Jawaharlal T. Shetye has filed two separate Second Appeals before the Commission. All important dates including the dates of filing various RTI applications, dates of the reply, if any, given by the PIO, dates of filing First Appeals and finally the dates on which the Appellant has preferred Second Appeals under before the commission are listed in the tabulation above. It is seen that in both the above appeal cases the First Appellate authority (FAA) has not passed any order. ...2

3. The main grievance of the Appellant is that although he had filed the RTI applications u/s 6(1) seeking information from the Respondent PIO, the PIO has not given any reply u/s 7(1) and further even on filing the First appeal as per 19(1), the FAA has not passed any order and as such the Appellant has approached the Commission u/s 19(3) by way of two separate Second Appeals and has prayed to direct the Respondent to furnish correct information without charging any fees and to impose penalty and other such reliefs.
4. **HEARING:** This matter is taken up for final disposal. During the hearing the Appellant is absent without intimation to this Commission. The Respondent PIO, is represented by Shri Vyankatesh Sawant, Municipal Engineer II, MMC, Mapusa.
5. **FINDINGS:** The Commission on perusing the material at the outset observes that the First Appellate Authority (FAA) has not passed any Order in both the above appeal cases although the Appellant had filed proper First appeals. The FAA being a quasi judicial body should have applied his mind and decided the First Appeals under the RTI Act.
6. The FAA is duty bound to see that the justice is done. The Commission notes with serious concern that such a serious lapse on part of the FAA clearly tantamount to dereliction of duty and cannot be taken lightly more so as the FAA is a senior officer of the rank OF Chief Officer, Mapusa Municipal Council.
7. The FAA is hereby called upon by this Commission to explain the reason for the failure to discharge his duties which he is legally bound as per the RTI act 2005. The FAA is directed to remain present personally before the Commission with his reply on 29th May 2019 at 11.30am .

8. **DECISION:** As per the RTI act 2005, a Second Appeal u/s 19(3) of the RTI Act 2005 lies against the Order / Decision of the First Appellate Authority (FAA). As there is no Order passed by the FAA, the Commission without going into the merits of the appeal cases remands both the matters back to the First Appellate Authority (FAA). The FAA is directed to issue fresh notices to both the Respondent PIO and the Appellant within 15 days of the receipt of this order, in any case latest by 08th May, 2019. The FAA shall after hearing the parties decide the First Appeal purely on merits by passing an appropriate speaking order.
9. The said First appeal should be disposed off within 30 days from the date on which the parties attend on the date of the first hearing. In exceptional cases, the FAA may take 45 days, however where disposal of appeal takes more than 30 days, the FAA should record in writing the reasons for such delay. If the FAA comes to a conclusion that the appellant should be supplied information by the PIO, then he may either i) pass an order directing the PIO to give such information to the appellant or ii) he himself may give information to the appellant while disposing off the First Appeal.
10. It is made clear that in each of the appeal cases where the PIO has not given a reply as per 7(1) to the RTI application within mandated time period, the FAA may decide to furnish the information free of cost as per law.
11. It is open to the Appellant if he is still aggrieved by the order of the FAA, to approach this Commission either by way of a Second Appeal u/s 19(3) or a Complaint u/s 18 as the case may be.

With these directions both the appeal cases stands disposed.

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

