

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal Nos: 135, 136 & 137/2019/SIC-II

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

... **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.

.....**Respondents**

Relevant emerging dates :

Date of Hearing : 25-07-2019

Date of Decision : 25-07-2019

O R D E R

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 filing Second Appeal
1)	Appeal No. 135/2019/SIC-II	28/01/2019	No Reply	04/02/2019	No Order	08/05/2019
2)	Appeal No. 136/2019/SIC-II	12/10/2018	No Reply	15/11/2018	No Order	08/05/2019
3)	Appeal No. 137/2019/SIC-II	Dated 06/01/2019 Inwarded on 07/01/2019	No Reply	18/02/2019	No Order	08/05/2019

The above three appeals pertain to one and the same parties as such they are combined together and disposed by one common order.

- Brief facts of the Case** are that the Appellant Jawaharlal T. Shetye has filed three separate Second Appeals before the Commission. All important dates including the dates of filing various RTI applications, dates of the reply given by the PIO, dates of filing First Appeals and finally the dates on which the Appellant has preferred Second Appeals before the commission are listed in the tabulation above.

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2. It is seen that in the above appeal cases the First Appellate Authority (FAA) has not passed any order. 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 and further even on filing the First appeal as per 19(1), the First Appellate Authority (FAA) has not passed any order and as such the Appellant has approached the Commission u/s 19(3) by way of Second Appeals.
3. The Appellant has prayed that the PIO and FAA have denied information and as such the PIO, Main Engineer-I, Shri Diniz D'Mello should be penalized as per 20(1) and 20(2) of the RTI Act 2005. The Appellant has also prayed for directions to furnish the Information sought without any delay and for imposing penalty and compensation and other such reliefs.
4. **HEARING:** During the hearing the Appellant Shri. Jawaharlal T. Shetye is present person. The PIO and FAA are both absent.
5. **SUBMISSIONS:** The Appellant submits that the PIO has not bothered to furnish any information nor has given any reply as per section 7(1). Also the FAA has not passed any order. It is submitted that in the past this Commission has remanded several matters back to First Appellate Authority (FAA), however the FAA has not bothered to either issue notices nor has conducted hearings in the matters that were remanded back to the First Appellate Authority and this is a serious lapse on part of the FAA and that strict action should be taken by the Commission for dereliction of duties.
6. **FINDINGS:** The Commission on perusing the material at the outset finds that the First Appellate Authority (FAA) has not passed any Order in the above three appeal cases although the Appellant had filed three proper First appeals as per 19(1). The FAA being a quasi judicial body should have applied his mind and decided the First Appeals as per the RTI Act.

7. The FAA is duty bound to see that the justice is done. The Commission finds that such a 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.
8. The Appellant has further submitted that the FAA in his past has neither issued notices nor has conducted hearings in all the earlier matters that were remanded back to the First Appellate Authority by the Commission and that it is a serious lapse on part of the FAA who is lower appellate authority to this Commission and such disobedience of orders should not be taken lightly and action should be initiated against FAA.
9. The FAA is hereby called upon by this Commission to explain the reason for failure to discharge duties which he is legally bound. The FAA is directed to remain present before the Commission with his explanation /reply on 30th August 2019 at 11.30 am.
10. **DECISION:** A Second Appeal under section 19(3) lies against the Order and decision of the First Appellate Authority (FAA) as per section 19(1), however as the FAA has not given any decision and has not passed any Order on the First Appeal, the Commission without going into the merits of the individual appeal cases accordingly remands all the three matters back to the FAA.
11. The First Appellate Authority(FAA) is directed to issue fresh notices to the parties i.e. both the Respondent PIO and the Appellant in all the above three appeal cases within 15 days of the receipt of this order in any case latest by 25th August 2019. The FAA shall after hearing the parties decide the First Appeal on merits by passing an appropriate speaking order giving justification for the decision arrived at.
12. 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.

13. 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.
14. 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.
15. The Commission further directs the FAA to issue notices, conduct hearings and decide all the First Appeal cases that were earlier remanded back by this Commission and dispose off the same in the time bound manner without any further delay failing which the Commission will be left with no option but to initiate appropriate action as deemed fit.

With these directions the above 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

The Registrar is hereby directed that a copy of this order is sent to the Director of Municipal Administration who is the next higher superior officer for issuing proper directions to the concerned FAA to comply with the order passed by this Commission.

A copy of this order also be sent to the Secretary, Urban Development, Government of Goa.