**GOA STATE INFORMATION COMMISSION**

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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**CORAM: Shri Juino De Souza: State Information Commissioner**

**Appeal Nos: 208 & 209/SIC/2016**

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,**
Head Clerk(Uday Salkar),
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 : 19-03-2019
Date of Decision : 19-03-2019

# 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. 208/SIC/2016 | 25/05/2016 | 15/03/2017 (which is after about 10 months delay) | Dated 30/06/2016 Inwarded on 08/08/2016 | No Order | 04/10/2016 |
| 2) | Appeal No. 209/SIC/2016 | 11/07/2016 | 09/08/2016 | 11/08/2016 | No Order | 04/10/2016 |

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 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. ..2

3. It is seen that in both 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 satisfactory 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.

4. The Appellant has prayed that the PIO and FAA have denied information and as such the PIO, Head Clerk, Shri Uday Salkar should be punished as per RTI Act and also Appropriate strictures may be passed against the FAA for dereliction of his office duties in order to protect the integrity of RTI Act 2005. The Appellant has also prayed for directions to furnish the Information sought without any delay and Compensation and other reliefs.

5. **HEARING:** This matter has come up for hearing on several previous occasions and is taken up for final disposal. During the hearing the Appellant is absent. The PIO, is represented by APIO, Shri. Vinay Agarwadekar, UDC, Mapusa Municipal Council, Mapusa-Goa.

6. **FINDINGS:** The Commission on perusing the material at the outset finds that the First Appellate Authority (FAA) has not passed any Order in both the appeal cases although the Appellant had filed 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. 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. 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 15th April 2019 at 11.30 am.

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7. **<u>CONCLUSION / DECISION:</u>** 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 the matter back to the FAA.

8. 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 two appeal cases within 15 days of the receipt of this order in any case latest by 15th April, 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.

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 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 all the two 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**