

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Appeal No.117/2019/CIC

Shri Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Khorlim, Mapusa Goa
403507.

....Appellant

V/s

- 1) Public Information Officer,
Main Engineer – I (Diniz D’Mello),
Mapusa Municipal Council,
Mapusa _ Goa
403507
- 2) First Appellate Authority,
The Chief Officer(Mr. Clen Madeira),
Mapusa Municipal Council,
Mapusa _ Goa 403507.

....Respondents

Filed On: 03/05/2019

Disposed On: 06/11/2019

1) FACTS IN BRIEF:

- a) The appellant herein by his application, dated 16/01/2019 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the respondent no.1, PIO under several points therein.
- b) According to appellant the said application was not decided by the PIO within time and as such deeming the same as refusal appellant filed first appeal to the respondent no.2 being the First Appellate Authority (FAA).
- c) The FAA failed to dispose the said appeal within the prescribed period and deeming the same as dismissal, the appellant has landed before this commission in this second appeal u/s 19(3) of the act.

Sd/-

...2/-

d) Notices were issued to the parties, pursuant to which they appeared. The PIO on 18/09/2019 filed his reply to the appeal. It is the contention of PIO that he was given charge on 22/01/2019 and prior to it Shri Venkatesh Sawant was holding it. That a fresh memo was issued to APIO of Engineering Section. According to PIO the RTI application was not served to dealing hand by one Smt. Nazira Sayad. Submissions on behalf of PIO was heard. Appellant could not be heard in view of his absence.

2) FINDINGS

- a) On going through the records it is seen that the application u/s 6(1) of the appellant was filed on 16/01/2019. On perusal of reply filed by the PIO, nowhere it is mentioned that the said application was replied at any time as required u/s 7(1) of the act, resulting in deemed refusal u/s 7(2). The appeal filed by the appellant on 19/02/2019 is also not disposed by the First Appellate Authority. It is nowhere the case of the respondent authority that the information sought by the appellant is exempted either u/s (8) and/or (9) of the act. In his reply the sole submissions are as to how he was not responsible and pointing fingers at other officers. There are no grounds even raised by PIO even to suggest that the information sought is forbidden from disclosure. In these circumstances as required under the act the appellant is entitled to have the information.
- b) On perusing the records it is seen that like the PIO, the First Appellate Authority has also failed to dispose the first appeal within time as contemplated u/s 19(6) of the act.

Sd/-

...3/-

Under the act the FAA was required to dispose the first appeal within 45 days. There are no records produced to hold that the first appeal was at all heard by FAA. Such a practice of FAA in relation to the exercise of its functions under this act are not in conformity with the provisions. Hence I find it necessary to issue necessary recommendation to the authorities specifying the steps to be taken for promoting such conformity.

c) In the above circumstances the appeal is disposed with the following:

O R D E R

Appeal is allowed. The present PIO of respondent authority i.e. Mapusa Municipal Council shall furnish to the appellant, the information as sought by him by his application dated 16/01/2019 within fifteen (15) days from the date of receipt of the order by him, free of cost.

Issue notice to then PIO, to show cause as to why penalty as contemplated u/s 20(1) and/or 20(2) should not be initiated against him, returnable on 26/11/2019 at 10.30am. Such notice to be served through present PIO.

Letter recommending the steps to be taken for bringing the action of the FAA within the provision of the act to follow.

Appeal disposed accordingly. Pronounced in open hearing.

Sd/-

(Shri. P. S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji -Goa