

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

CORAM: Shri Juino De Souza: State Information Commissioner

Complaint No: 43/2019/SIC-II

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

..... Complainant

v/s

1. The Public Information Officer,

Mr. V. Sawant,
The Municipal Engineer GR II,
Mapusa Municipal Council,
Mapusa- Goa.

2. The First Appellate Authority,

The Chief Officer, (Mr. Clen Madeira)
Mapusa Municipal Council,
Mapusa- Goa.

..... Opponents

Relevant emerging dates:

Date of Hearing : 12-11-2019

Date of Decision : 12-11-2019

ORDER

1. **Brief facts** of the case are that the Complainant vide an RTI application dated 22/11/2018 sought certain information u/s 6(1) of the RTI Act, 2005 from the PIO, Mapusa Municipal Council, Mapusa-Goa.
2. The information pertains to representation dated 17/08/2018 inwards on 20/08/2018 requesting to intimate the next date of hearings of RTI First Appeal case matters pending since year 2016 till date. The Complainant is *inter alia* seeking information of certified copies of action taken report on the above mentioned representation and all notings and copies of all correspondence letters in processing above representation and the present upto date progress/status report to above referred representation and the names and designations of the officials entrusted the duties of processing the above referred representation and presently with whom it is pending for further course of action and other such related information as contained in RTI Application therein.

3. It is the case of the Complainant that the PIO has not furnished any reply or information as required under section 7(1), as such the Complainant filed a First Appeal on 24/12/2018 and it is seen that the First Appellate Authority (FAA) has not passed any order. Being aggrieved, the Complainant has subsequently approached the Commission by way of a Complaint case registered on 26/06/2019 and has prayed to direct the Respondent PIO to furnish information free of cost and for penalty and other such reliefs.
4. **HEARING:** During hearing Complainant Shri Jawaharlal T. Shetye is absent. The Respondent PIO, is represented by Shri. Anil Hallikar, O/o Mapusa Municipal Council, Mapusa - Goa.
5. **FINDINGS:** The Commission on perusing the material on record at the outset finds that the First Appellate Authority (FAA) has not passed any Order in the first appeal case although the Complainant had filed proper First appeal as per 19(1). The FAA being a quasi judicial body should have applied his mind and decided the First Appeal 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, Mapusa Municipal Council, Mapusa- Goa.
6. 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 09th December 2019 at 11.30 am.
7. **CONCLUSION / 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 Complaint case accordingly remands the matter back to the FAA. ...3

8. The First Appellate Authority (FAA) is directed to issue fresh notices to the parties i.e. both the Respondent PIO and the Appellant within 15 days of the receipt of this order in any case latest by 16th December, 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.
10. It is open to the Complainant herein 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 the Complaint case 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