

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

CORAM: Shri Juino De Souza: State Information Commissioner

Complaint No.155 & 156/SCIC /2013

Shri. Gajanan Datta Phadte,
898, Nila Niwas, Alto Torda,
Porvorim –Goa

..... Complainant

v/s

1. Public Information Officer ,
Town & Country Planning Department,
Mapusa Goa.

2. First Appellate Authority,
Senior Town Planner,
Town & Country Planning Department,
Mapusa Goa.

.... Opponents

Relevant emerging dates:

Date of Hearing : 19-06-2019

Date of Decision : 19-06-2019

ORDER

The above two Complaint cases involve one and the same parties and are having same and similar contents and as such they are combined together and disposed by one common order.

1. **Brief facts of the case** are that the Complainant vide two RTI application both are dated 12/12/2012 had sought certain information as per the respective RTI applications therein u/s 6(1) of the RTI Act, 2005 from the Office of the Chief Town Planner, Panaji and Office of Town Country Planning Department, Mapusa Goa.
2. The Complainant in case no 155 has requested for copy of final NOC issued to Sub division of Sy No.138/1 of 4150 M2 of Penha de France V.P. approved provisionally by Associate Town Planner, T & C.P. Department Mapusa in concurrence with the chief town Planner, by letter No. DB/1456/367/96, dated 14-2-96 and records taken by Town Planner to approve construction plans in plots of Sy. No. 138/1 without final NOCs and approval issued by TCP to divert its 8 meter public road ending in Sy.No. 140/3 4 & 5 as per sub division plan and documents made to the TCP to allow constructions on its public roads and open spaces and to encroach them. ...2

3. The Complainant in case no 156 has made a reference to the Chief Town Planner, Associate Town Planner, T & C. P. deptt. Mapusa having approved provisionally by letter No. DB/1456/367/96 dated 14/2/96 Sub division of Sy. No. 138/1, 4150 meter square of Penha de Franca V.P, and has requested to provide information of final NOC issued as per the conditions laid down and all records and documents on record and the concurrence of Chief Town Planner taken by Town Planner to approve construction plans in plots of Sy. No. 138/1 without issuing final NOC as per conditions laid, concurrence of Chief Town Planner taken by Town Planner to divert its 8 meter public road ending in Sy. No. 140/3,4&5 as per approved sub division plan and concurrence of Chief Town Planner taken and records considered by Town Planner to allow constructions on its public roads and open spaces and to encroach them.
4. It is the case of the Complainant that the PIO has failed to provide reply and information as per 7(1) in both the RTI applications and as such the Complainant filed two separate First appeals both dated 07th March 2013 and the First Appellate Authority (FAA) by two separate orders both dated 29/04/2013 directed the PIO to conduct one more search for the missing records and provide the information to the Complainant.
5. Being aggrieved that despite the order of the FAA, the PIO has not furnished the information, the Complainant filed two separate Complaint cases both registered with the Commission on 11/12/2013 and has prayed for directions to the PIO to furnish the information and for penalty, disciplinary action and other such reliefs.
6. **HEARING:** This matter of 2013 has come up for hearing on several previous occasions and during the hearing the Complainant Gajanan D. Phadte is absent. It is seen from the Roznama that he has continuously remained absent since 2017 and it appears that he is not interested to pursue his Complaint case. The Respondent PIO, Ramdas Volvoikar, Dy. Town Planner, is present in person.

7. **SUBMISSION:** At the outset the Respondent PIO submits that the information could not be furnished in both cases as the said files were not traceable. It is further submitted that the Complainant had approached the First Appellate Authority (FAA) and the First Appellate Authority vide an Order dated 29/04/2013 had directed the PIO to locate the file by conducting one more search and that despite conducting a diligent search the said files pertaining to both the Complaint cases were not traceable. The Respondent PIO files a reply/ declaration dated 26/03/2018 confirming the facts and stated that the dealing hand was directed to search the records and to locate concerned file, however the concerned file could not be located and accordingly this was informed to the Appellant.
8. It is also submitted that the North Goa District office is having more than 40,000 files (approximately) pertaining to Technical matters and there is no post of a Record Keepers and as such the peons only keep the file in record room and whenever required search and get the files. It is further stated that the process of listing of the files was initiated by the undersigned in the North Goa District office. The PIO finally submits that there is no deliberate intention on his part not to provide information.
9. **FINDINGS:** The Commission finds that the PIO has indeed made a diligent search for the missing information pertaining to both the Complaint cases and despite efforts the said files were not traceable. As stipulated in the RTI Act, the role of the PIO is to provide information as is available, how is available, what is available and if available in the records. The PIO is not called upon to create information or to do research or to analyze information so as to satisfy the whims and fancies of the Complainant. The very fact that PIO had also instructed the dealing hand to search the records again pursuant to the order of the FAA, is sufficient to prove the bonafide that there is no malafide intention on the part of the PIO either to conceal or deny information.

10. The Complainant in his Complaint memo has stated that PIO should have lodged a missing Complaint case in police station. The Commission is of the considered opinion that there is no necessity for the PIO to file such a Police Compliant, moreover even if a complaint is made, the Police cannot be called upon to search for the missing file in the office of the Public Authority. A police compliant is necessary only if theft of the file is reported.
11. **DECISION:** In the present case as the files containing the information as sought by the Complainant are not traceable the information could not be furnished. Further in view that the PIO has filed two separate declarations/ replies confirming that the files are not traceable. **Accordingly nothing further survives in both the Complaint case which stand 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