

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

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

**Compliant No: 58/2018/SIC-II**

Shri. Nitin Y. Patekar,  
Oshal Bag Dhargal,  
P.O. Colvale – Goa.

**..... Complainant**

**v/s**

1. Public Information Officer,  
O/o Block Development Officer,  
Pernem - Goa.
2. First Appellate Authority ,  
O/o Directorate of Panchayat,  
Junta House, Panaji- Goa.

**..... Opponents**

**Relevant emerging dates:**

**Date of Hearing : 25-03-2019**

**Date of Decision : 25-03-2019**

**ORDER**

1. **Brief facts** of the case are that the Complainant vide an RTI application dated 02/11/2017 sought certain information u/s 6(1) of the RTI Act, 2005 from the PIO, Block Development Office, Pernem - Goa.
2. The information pertains to 1) to furnish the attendance record or certificate of Village Panchayat Dhargal, Secretary in the period of 01/08/2017 to till date. 2) To furnish the M.B record as given below construction in year 2017 (i)The construction of protection wall near Vilas Naik house to Pravin Naik house in ward no.1 in Village Panchayat Dhargal. (ii) The construction of protection wall near Dilip Dhargalkar house in ward no.1 in Village Panchayat Dhargal. 3) The construction of the protection wall near Pundalik Dhargalkar house n Village Panchayat Dhargal in ward No.1. and 4) The construction of the protection wall near Narayan Garage to Deepak Naik house.
3. It is seen that the PIO has vide letter No ADM/BDO-PER/RTI/Dhargal/2017/2292 dated 30/11/2017 furnished the information.

4. The Complainant not being satisfied with the information furnished at point no 2)(ii) wherein the PIO stated that the measurement is not yet recorded in the measurement book, thereafter filed a First Appeal on 09/10/2018 and it is seen that the First Appellate Authority (FAA) has not passed any order and being aggrieved has approached the Commission by way of a Complaint case registered on 09/10/2018 and has prayed to impose penalty and other such reliefs.
5. **HEARING:** This matter is taken up for final disposal. During hearing Complainant Shri Nitin Y. Patekar is present. The Respondent PIO, is represented by Shri. Mahesh Gaude, LDC, O/o B.D.O. Pernem-Goa.
6. **SUBMISSION:** The Appellant submits that he is aggrieved with the information provided by the PIO only at point no 2)(ii) wherein the PIO stated that the measurement is not yet recorded in the measurement book and which is a wrong and misleading information. It is further submitted that in another RTI application filed seeking the same information, the PIO had provided the measurement taken and that the copy of the measurements was enclosed with the Complaint memo and is on record of the file. The Appellant finally submits that penalty should be imposed on the PIO for furnishing wrong information and for the harassment caused.
7. **FINDINGS:** The Commission on perusing the material 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 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 Deputy Director of Panchayat –North Goa.

8. 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 15<sup>th</sup> April 2019 at 11.30 am.
9. **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.
10. 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 16<sup>th</sup> 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.
11. 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.
12. 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**

