

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

Appeal No.205/2019/SIC-I

Shri Jawaharlal T. Shetye
H.N. 35/A, Ward No, 11,
Near Sateri Temple, Khorlim,
Mapusa-Goa -403 507

....Appellant

V/s

1) The Public Information Officer,
Mapusa Muncipal Council, Mapusa-Goa – 403507.

2) First Appellate Authority,
Chief Officer, (Clen Madeira)
Mapusa Municipal Council,
Mapusa-Goa 403507

.....Respondents

CORAM: Ms. Pratima K. Vernekar, State Information Commissioner

Filed on: 26/06/2019

Decided on: 24/09/2019

ORDER

1. The background leading to present appeal is that the Appellant Shri J.T. Shetye had filed an application on 7/11/2018 under section 6(1) of Right To Information Act 2005 to the Public Information Officer (PIO) of the Office of Mapusa Municipal Council at Mapusa-Goa.
2. It is contention of the appellant that the said application of his was not responded by the Public Information Officer (PIO) as such deeming the same as rejection , he moved the Respondent No. 2 Chief Officer of Mapusa Municipal Council on 10/12/2018 being first appellate authority. It is his contention that he received notices dated 16/1/2018 but the Respondent No. 2 First Appellate authority (FAA) as usual failed to dispose of his fist appeal dated 10/12/2018 within the mandatory period of 45 days .

3. In this background the appellant has approached this commission by way of second appeal u/s 19(3) of RTI Act 2005. This appeal is filed before this Commission on 26/6/2019. Here the petitioners besides the grievance of non furnishing of information has grievance against that First Appellate Authority under section 19(1) of RTI Act, 2005 for its inaction.
4. Notices were issued to both the parties. Appellant opted to remain absent. Respondent No. 1 PIO Shri Diniz D'Mello was present. Respondent No. 2 opted to remain absent .
5. Reply filed by Respondent no. 1 PIO on 17/9/2019 resisting the appeal. The copy of the same could not be furnished to the appellant on account of his absence . However he was directed to collect the same but he failed to do so . No reply was filed by Respondent no. 2 first appellate authority.
6. Since the appellant opted to remain absent, this commission had no any other option then to decide the matter based on the records available in the file.
7. The respondent PIO vide his reply dated 17/9/2019 has challenged the maintainability of the present proceedings . It is his contention that present appeal is filed beyond the 90 days from the date of filing the RTI application. Hence the point arises for my determination is "Whether the appeal proceedings is maintainable or barred by limitation."
8. I have scrutinised the documents available in the file and also considered the submission of Respondent.
9. The section 19 (6) states that "First appeal under sub-section (1) or sub section (2) shall be disposed of within 30 days of the receipt of appeal or within such extended period not exceeding

45 days from the date of filing thereof” and section 19(3) of the acts provides filing of the second appeal within 90 days from the date on which the decision should have been made or for actually received, with the Central Information Commission or the State Information Commission.

Proviso to section 19(3) grants power to the commission to admit the appeal after the expiry of period of 90 days on being satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

10. The Hon’ble Calcutta High Court in writ petition No. 4775 (w) of 2011 Kashi Nath Muni V/s State of West Bengal, has held:-

“In view of the provisions of sub-section (6) of section 19 the First Appellate Authority was required to give his decision in the appeal within thirty days of the receipt of the appeal or within such extended period not exceeding a total of Forty five days from the date of filing thereof, as the case might be, for reasons to be recorded in writing. Hence on expiry of forty-five days from the date of filing of the appeal the petitioner acquired a right to lodge a second appeal under sub-section (3) of section 19.”

11. In the present case admittedly as per record the appeal was filed before First Appellate Authority (FAA) on 10/12/2018, it was supposed to be decided maximum within period of not exceeding 45 days. Thus for reckoning the period of limitation it starts approximately on 25/1/2019 and 90 days expires approximately on 27/4/2019, within which time the appeal was required to be filed. Any cause for delay during this period is required to be explained.
12. In the present case it is seen from the records that the second appeal is not filed within limitation by the appellant. The appellant

has also not sought for condonation of delay and no any genuine reasons or sufficient cause for not filing the second appeal within stipulated time have been placed on record by the appellant .The appellant nowhere has given any convincing reasons nor made out any grounds as to why he did not file the present appeal during the period of 90 days .

13. The ratio laid in above case Kashi Nath Muni V/s State of West Bengal (supra) is squarely applicable to the facts of this case and therefore the cause of action/period of limitation would have run from 25/1/2019 till 27/4/2019. The appellant is reacting only in the month of 26/6/2019 after the delay of nearly about 2 months after the expiry of period of limitation.
14. Thus considering the above circumstances. I find that no grounds are made by the appellant to seek the equitable relief of extension interms of proviso to section 19(3) of the RTI Act having failed to show sufficient cause for delay for filing appeal in time. I am constrained to dismiss the present appeal as it is barred by limitation which I hereby do.

Appeal proceedings stands closed.

Notify the parties.

Pronounced in the open court.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Sd/-
(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa