

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

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Appeal No. 99/2019/SIC-I

Shri. Jawaharlal T. Shetye,  
H.No.35/A,W. No-11,  
Khorlim, Mapusa Goa.  
Pincode-403 507

....Appellant

V/s

1) The Public Information Officer,  
Mapusa Municipal Council,(Mr. Clen Madeira)  
Mapusa Goa.

2) First Appellate Authority,  
The Chief Officer,  
Mapusa Municipal Council,  
Mapusa-Goa.

.....Respondents

**CORAM:**

**Ms Pratima K. Vernekar**, State Information Commissioner

Filed on: 17/4/2019

Decided on: 08/05/2019

**ORDER**

1. The second appeal came to be filed by the appellant Shri Jawaharlal T. Shetye on 17/04/2019 against the Respondent No.1 Public Information Officer of Mapusa Municipal Council, Mapusa, Bardez-Goa and against Respondent no. 2 first appellate authority under sub section (3) of section 19 of RTI Act 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 2/11/2018 had sought for certain information from Respondent No.1 Public Information Officer (PIO) of Mapusa Municipal council ,Mapusa-Goa on 11 points as stated therein in the said application. The said information sought in exercise of his right under sub section (1) of section 6 of RTI Act, 2005.
3. It is the contention of the appellant that his above application filed in terms of sub section 1 of section 6 was responded by the

Respondent no 1 PIO on 29/11/2018 within stipulated time frame thereby furnishing him the information

4. It is the contention of the appellant that he was aggrieved by the Respondent PIO's decision in denying him the information pertaining to point No. 1 to 5 and 8 to 11 as such deeming the same as rejection, the appellant filed 1<sup>st</sup> appeal on 4/12/2018 to Respondent no. 2 chief officer of Mapusa Municipal council being first appellate authority in terms of section 19(1) of RTI Act, 2005.
5. It is the contention of the appellant that the respondent no. 2 FAA vide order dated 16/1/2019 allowed his appeal and directed the respondent no 1 PIO to furnish the information at point No. 2 and 4 to the appellant.
6. It is the contention of the appellant that in spite of the said order, the said information was not furnished and hence the appellant has approached this commission in his 2<sup>nd</sup> appeal seeking relief of directions to PIO in complying the order of first appellate authority dated 16/1/2019 as also seeking penalty and compensation.
7. Notices were issued to both the parties. Appellant appeared in person. Mr. Vyankatesh Sawant appeared on behalf of present PIO Shri Diniz D'mello. Respondent no.2 First appellate authority opted to remain absent.
8. No reply came to be filed by Respondent PIO despite of giving him opportunities and also failed to provide information as such it is presumed that the Respondent PIO has no say to be offered and averments made by the appellant in the memo of appeal are not disputed by him.
9. It is the contention of the appellant is that the respondent PIO as usual ignored to comply the directions and thereby has committed the act of disobedience and behaved in the manner unbecoming of a Public servant. He further contended that he is senior citizen

and great hardship has been caused to him in pursuing the RTI application before different authorities and prayed to grant him reliefs sought by him.

10. Since no reply was filed by the respondent , this commission had to decide the matter based on the available records in the file .
11. On perusing the order of FAA dated 16/1/2019 it reveals that the PIO and APIO were present during the proceedings and the order was passed in their presence after hearing both the parties and the directions were given to the Respondent PIO for giving inspection to the appellant as sought by him at point NO. 2 and for providing information to appellant at point No. 4 if available in Municipal records. As such the respondent PIO was aware of the order passed and directions issued to him for furnishing information. It is not the case of PIO that the order of the First appellate authority was challenged by him or has complied the order of first appellate authority. The PIO has also not placed on record any correspondence made by him to the appellant in pursuant to the said order. No reasons whatsoever nature were conveyed either to the first appellate authority nor to the appellant herein why he could not comply the said order in time. The contention of the appellant that PIO having failed to comply with the order dated 16/1/2019 of the Respondent No. 2 first appellate authority have gone undisputed and unrebutted. The information still not furnished to the appellant till date. There is an delay in furnishing information and complying the order of first appellate authority.
12. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act or has no respect to obey the order passed by the senior officer. Such a conduct of PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-vis the intent of the Act.

13. Public authority must introspect that non furnishing of the correct or incomplete information lands the citizen before first appellate authority and also before this commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.
14. This commission is aware of the practical difficulties faced by the PIOs. The officer of the public authority designated as PIOs have other duties also and the duties to be discharged by them as PIO is an additional duty. The dealing with the request for information is a time consuming process. Time and again this commission had directed the public authority to comply with section 4 of RTI Act so that public have minimum resort to the use of this Act to obtain information. It appears that the public authority concerned herein is not serious in implementing section 4 of RTI Act.
15. Facts and circumstances of the present case doesn't warrant levy of penalty on PIO as PIO has shown his bonafides by providing the information to the appellant well within stipulated time of 30 days. The only lapse found herein on the part of PIO is non compliance of order of first appellate authority. since the appellant has not been able to demonstrate that PIO malafidely denied the information sought, hence a liberal view is taken in the present proceedings and PIO is hereby admonished and directed to be vigilant henceforth .
16. I therefore dispose the present appeal with order as under ;

Order

- a) Appeal partly allowed.
- b)The Respondent No.1 PIO is directed to comply the order passed by the Respondent No. 2 First appellate authority dated 16/1/2019 and to provide the inspection at point no.

2 and information at point No. 4 if available in the records to the appellant, free of cost, as sought by appellant vide his RTI Application dated 2/11/2018, within 20 days from the date of receipt of this order.

c) Rest prayers are rejected.

With above directions the appeal proceedings stands closed.

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.