

**GOA STATE INFORMATION COMMISSION**

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

**Appeal No. 31/2020/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 (PIO),  
Mapusa Muncipal Council,  
Mapusa-Goa–403507.

2) First Appellate Authority (FAA),  
Chief Officer, (Mr. Clen Madeira),  
Mapusa Muncipal Council,  
Mapusa-Goa 403507

.....Respondents

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

Filed on: 30/1/2020

Decided on:03/07/2020

**ORDER**

1. Brief facts of the present proceedings as put forth by Appellant are as under :-

a) In exercise of right under section 6(1) of Right To Information Act, 2005 the Appellant Shri J.T. Shetye filed application on 30/9/2019 seeking certain information pertaining to the letter bearing No. 2/8/2015-DMA/S/14/23/1947 dated 20/9/2019 addressed to the Chief Officer of Mapusa Municipal Council, Mapusa, Bardez-Goa by the Additional Director, Urban Development, Panajim-Goa with the subject "Grievance against the sitting Councilor and the Ex-Chairperson Shri Sandeep Hari Falari for abusing and misusing his office position to obtain gain, favor for himself by transferring Municipal shop No. 14/23 in his name by exercising undue influence on the corrupt officials of Mapusa Municipal Council". The Appellant had

annexed a letter bearing No. 2/8/2015-DMA/S/14/23/1947 dated 20/9/2019 addressed to Chief Officer of Mapusa Municipal Council by Additional Director Urban Development and letter dated 11/9/2019 made by the Appellant to the Chief Minister of Goa and to Hon'ble Minister of Urban Development and to Director of Municipal Administration.

- b. It is the contention of the Appellant that his above application filed in terms of sub section (1) of section 6 was not responded by the Respondent no 1 Public Information Officer (PIO) within stipulated time of 30 days neither the information was provided to him till this date and as such deeming the same as rejection, the Appellant filed 1<sup>st</sup> appeal to Respondent no 2 chief officer of Mapusa Municipal council on 26/11/2019 being first appellate authority in terms of section 19(1) of RTI Act, 2005.
2. It is the contention of the Appellant that the Respondent No. 2 First Appellate Authority, did not disposed his First Appeal within stipulated time as such he is forced to file the present appeal.
3. In the above background the Appellant being aggrieved by action of PIO and of First Appellate Authority (FAA), has approached this commission in this second appeal u/s 19(3) of the Act with the contention that the information is still not provided and seeking order from this commission to direct the PIO to furnish the information as also for invoking penal provisions as against Respondent PIO so also sought compensation for the detriment suffered by him at the hands of Respondents.
4. Matter was taken up on board and was listed for hearing and accordingly notices were issued to the parties. Appellant was present in person. Respondent No. 1 PIO was represented on two occasion by Advocate Matlock D'Souza who undertook to file wakalatnama. The Respondent No.2 First Appellate Authority (FAA) was initially represented by Shri Vinay Agarwadekar .

5. During the hearing on 13/3/2020 the Advocate Matlock D'Souza sought time to furnish information and to file appropriate reply and then the matter was fixed on 31/3/2020 for furnishing information and for filing reply. However due to the lockdown in view of Covid-19 the hearing could not be taken place, hence fresh notices issued to both the parties after the lockdown was lifted and the matter was then fixed on 26/6/2020 for furnishing information and for filing reply.
6. In pursuant to fresh notices Appellant appeared in person Respondent absent despite of due service of notice. No reply came to be filed by both the Respondents it appears that the Respondents are not interested in present proceedings. However in the interest of justice a opportunity was granted to Respondent to file their say in Appeal proceedings. Since Commission is not equipped with a virtual hearing /Video Conferencing in avoid dealing disposal of case , it was ordered that parties to file their say, written submission, documents by Email to this commission by forwarding the same to the opposite parties despite of same the Respondent did not bother to place on record any submission substantiating their case as such this commission presumes and hold that both the Respondents has no any say to be offered and the averments made by the Appellant are not disputed by them and hence arguments of the Appellant were heard .
7. It is the contention of the Appellant that he had sought the said information in a larger public interest and that both the Respondents as usual has failed to dispose off his RTI application and his first appeal within a mandatory period .It is his contention that he had sought the said information in larger public interest and hence the Respondent should have been provided him the same. It was further contended that the information denied to him deliberately by the PIO in order to protect the illegality committed by the public authority concerned therein

8. On perusal of the application dated 30/9/2019 it is seen that the Appellant was seeking following information i.e certified copies of the action taken report by the Mapusa Municipality on the letter dated 20/9/2019 made to the Chief Officer by the Office of DMA , certified copies of all noting sheets and correspondence made by the public authority to the seating Councilor Shri Sandeep Falari calling for his explanation with regards to the Municipal Shop NO. 14/23 transferred in his name , status and up-to-date progress report in processing the above referred letter dated 20/9/2019. The Appellant also sought the names and designations of the officials interested with the duties of processing his petition dated 11/9/2019 reference of which is made in DMAs letter No.2/8/2015-DMA/S/14/23/1947 dated 20/9/2019.An certified copies of the comments /report prepared by the Chief Officer and submitted to DMAs office pursuant to the letter No. 2/8/2015-DMA/S/14/23/1947 dated 20/9/2019 was also sought by the Appellant in his said RTI Application.
9. Section 4 (1)(d) of the RTI Act requires that the public authority to provide reasons for his administrative or quashi Judicial decision to the effected person.
10. In the present case it could be gathered that the Appellant had filed a complaint with the Director of Municipal Administration and Urban Development and pursuant to which a letter bearing No.2/8/2015-DMA/S/14/23/1947 dated 20/9/2019 was issued to the Chief Officer of Mapusa Municipal Councils by the Additional Director of Urban Development
11. The Hon'ble Delhi High Court in writ petition (c)No. 5957/2007; Kusum Devi V/s Central Information Commission has held that;  

"The petitioner certainly has right to ask for "Information" with regards to complaints made by him, action taken and the decision taken thereafter".

12. In view of the ratio laid down by The Hon'ble High Court of Delhi in case of Kusum Devi (supra), the appellant being complainant had every right to know the status of his complaint and proceedings conducted therein. As such by applying the above ratio I am of the opinion that the appellant herein is entitled for the information as sought by him vide his application dated 30/9/2019.
13. The public authority concerned herein was expected to deal with the said representation and to inform and provide reasons for administrative or quasi-judicial decisions taken by them.
14. The Hon'ble Apex Court in the matter, State of U.P. V/S Raj Narayan ; (1975) 4 Supreme Court Cases 248 observed

*"The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings. The Right to know which is derived from the concepts of freedom of speech, though not absolute, is a factor which can, at any rate, have no repercussion on the public security. To cover with a veil of secrecy their common routine, denial is not in the interest of the Public. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of party and political or personal self-interest or bureaucratic routine. The responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption."*

15. In an landmark case " Reserve Bank Of India" and others V/s Jayantilal N. Mistry and others;(Civil )Original Jurisdiction in transferred case (Civil) No. 91 of 2015 (Arising out of transfer petition (Civil) No. 707 of 2012 ) has held para 75 ;

*"The ideal of 'Government by the people' makes it necessary that people have access to information on*

matters of public concern. The free flow of information about affairs of Government paves way for debate in public policy and fosters accountability in Government. It creates a condition for 'open governance' which is a foundation of democracy".

16. Yet in another decision the Hon'ble Apex Court S.P.Gupta V/S Union of India, AIR 1982 SC 149 has observed:-

*"No democratic Government can Survive without accountability and the basic postulate of accountability is that people should have information about the functioning of the Government, that an open Society is the new democratic culture towards which every liberal democracy is moving and our society should be no exception. The concept of the open Government is the direct emanation from the right to know which seems to be implicit in the right of freedom of speech and expression guaranteed under Article 19(1)(a). Therefore, disclosure of information in regards to the **functioning of the Government must be the rule, and secrecy an exception**, justified only where the strictest requirement of public interest so demands".*

17. By subscribing to the above ratios laid down by the Hon'ble Apex Courts in the above matters and considering the intends of the RTI Act and the nature of Information sought, I am of the opinion that the appellant is entitled to receive the said information .
18. It is also seen from the records that both the Respondents have not acted in conformity with the provisions of RTI Act. The PIO, First Appellate Authority and the public authority must introspect that not furnishing of the information, correct and/or incomplete information lands the citizen before first appellate authority and also before this commission resulting into unnecessary harassment of

the common man which is socially abhorring and legally impermissible such a conduct by both the Respondent is obstructing transparency and accountability appears to be suspicious and adamant visa-vis the intent of the Act. Both the Respondents are hereby Admonished and is hereby directed to be vigilant henceforth while dealing with the RTI matters and to comply the provisions of the RTI Act in true spirit.

19. Before parting it need to mention that section 4 of the Act casts an obligation on all public authorities to maintain records duly computerised and connect through network. Said provision also requires public authorities to publish certain information in the prescribed format and update the same periodically. If such and exercise is undertaken by the Respondent authority herein, then such disseminated information would be beyond the purview of the Act. It is noted that inspite of the said obligation on the Respondent authority and direction of this commission from time to time, the Respondent authority has failed to comply with said requirement, thereby compelling not only Appellant but citizens at large to have the information in physical form by filing applications.
20. The Hon'ble High Court of Bombay at Goa Bench in PLI writ petition No. 42 of 2019; Roshan Mathias V/s Village Panchayat of Candolim had directed the public authority i.e the Village Panchayat Candolim to comply its obligation interms of section 4(1)(b) of the RTI Act as expeditiously as possible within a period of 6 months.
21. The observation made by the Hon'ble High Court and the ratios laid down in the case of Roshan Mathias (Supra)are also applicable to the public authority concerned herein.
22. In the facts and circumstances of the above case and in view of the discussion above, I find that ends of justice will meet with following directions. I therefore dispose the present appeal with order as under ;

## **ORDER**

- a) Appeal allowed.
- b) The Respondent no.1 PIO is hereby directed to provide the information as sought by the appellant vide his application dated 30/9/2019, free of cost within 20 days from the receipt of this order.
- c) Both the Respondents are hereby directed to be vigilant henceforth while dealing with the RTI matters and to strictly comply with the provisions of the Act. Any lapses on their part in future will be viewed seriously.
- d) In exercise of my powers conferred u/s 25(5) of RTI Act 2005 this Commission recommends that the Director of Municipal Administration, Panjim shall issue instruction to both the respondents to deal with the RTI matters appropriately in accordance with the provisions of the RTI Act and any lapses on the part of respondents be considered as dereliction of duties.
- e) The Public Authority concerned herein i.e the Mapusa Municipal Council, Mapusa-Goa is hereby directed to comply with section 4 of Right To Information Act, 2005 within 6 months in case the same is not complied.
- f) Copy of this order shall be sent to Director of Municipal Administration, Panjim, Goa for information and necessary action.

With the above directions, the 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