

**GOA STATE INFORMATION COMMISSION**

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

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**Appeal No. 321/2019/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 (PIO),  
The Main Engineer Gr-I(Diniz D'Mello)  
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:13/11/2019  
Decided on:16/01/2020

**ORDER**

1. The second appeal came to be filed by the appellant Shri Jawaharlal T. Shetye on 12/11/2019 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 Right To Information Act, 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 16/8/2019 had sought for certain information from Respondent No.1 Public Information Officer (PIO) of Mapusa Municipal Council, Mapusa-Goa on 5 points as stated therein in the said application pertaining to representation dated 7/12/2017 made by Mapusa Peoples Union to the Chief Officer/Chairperson of Mapusa Municipal Council with a subject

*"scam in the recruitment process of 4 posts of LDC, 3 General Category & one Schedules Tribe Category filled by Mapusa Municipal Council in the month of December 2013".* The said information was sought by the appellant in exercise of his right u/s 6(1) 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 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 25/9/2019 being first appellate authority.
4. 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.
5. 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.
6. Matter was taken up on board and was listed for hearing and accordingly notices were issued to the parties. Appellant opted to remain absent. Respondent PIO Shri Diniz D'Mello appeared along with APIO Vinay Agarwadekar. The Respondent No.2 First Appellate Authority (FAA) opted to remain absent despite of due service of notice.

7. Despite of giving opportunities no reply came to be filed by both the Respondents 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.
8. On account of absence of both the parties this commission had no any option then to decide the matter based on the records available in the file.
9. On perusal of the application dated 16/8/2019 it is seen that the appellant was seeking following information i.e certified copies of the action taken report, certified copies of all noting sheets, correspondence made by the public authority, status and up-to-date progress pertaining to the representation dated 7/12/2017 made by the Mapusa Peoples Union so also intended to know the names and designation of the officials entrusted the duties of processing the said representation dated 7/2/2017.
10. The public authority concerned herein was expected to deal with the said representation and to inform and provide reasons for administrative or quashi judicial decisions taken by them.
11. 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 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 to 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 partied 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."*

12. In an land mark 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".*

13. 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”.*

14. By subscribing to the ratios laid down in the above matters , 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 .
15. On perusal of the records, it is seen that the application dated 16/8/2019 was filed and received by the Office of Respondent PIO on 16/8/2019 itself. Under section 7(1) of the Act, the PIO is required to respond the same within 30 days from the said date. The Respondent PIO has not placed on record any documentary evidence of having adhered to section (7)of RTI Act, 2005.
16. The records shows that the first appeal was filed by the appellant on 25/9/2019 which was received in the Office of First Appellate Authority on the said day itself. As per section 19(1) of RTI Act, 2005 , the time limit is fixed to dispose the appeal within 30 days and maximum within 45 days. There are no records of having passed order by respondent no.2 first appellate authority.
17. Thus from the records and undisputed facts, it could be gathered that the Respondent PIO have failed to respond the said application filed by the appellant u/s 6(1) of RTI Act and that the first appellate authority did not disposed the first appeal within the period of 45 days.
18. The information was sought on 16/8/2019 and till date no information has been furnished to the appellant. There is a delay in furnishing the information.
19. Both the respondents have not acted in conformity with the provisions of RTI Act. It is quite obvious that appellant has

suffered lots of harassment and mental agony in seeking the information and pursuing the matter before different authorities. 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. Hence the Act on the part of the both the Respondents herein is condemnable.

20. As there is no evidence produced on records by the appellant of detriment or losses suffered by him, the relief of compensation sought by the appellant cannot be granted.
21. In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following:

### **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 16/8/2019, 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) 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