

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.134/ 2017

Shri. Gajanan Datta Phadte,
898, Nila Niwas, Alto Torda,
Porvorim. 403521

..... **Appellant**

v/s

1.The State Public Information Officer/
Asst. State Public Information Officer,
Office of Administrative of Comunidade,
North Zone, Mapusa Goa.

2. The First Appellate Authority,
Additional Collectorate-II (North),
Panaji Goa.

..... **Respondent**

Relevant emerging dates:

Date of Hearing : 04-02-2020

Date of Decision : 11-02-2020

O R D E R

1. Brief facts of the case are that the Appellant vide an RTI application dated 08/05/2017 sought certain information under section 6(1) of the RTI Act from the Respondent PIO, Office of Administrator of Comunidade, North Zone. The information pertains to 1) Allotment of Plot No. 7 of sub division of 18 plots of Sy. No. 110 part, Lote No. 121, Salvador do Mundo village, approved by Chief Town Planner vide dated 17/03/11977 and sent to the Administrator of Comunidade, Mapusa, with reference to his letter No. 78 dated 24/02/1977 with revised Plan of Sub Division. 2) The period to which the information relates: From allotment of Plot No.7 out of sub div. of 18 plots of Sy.No. 110 part, Lote No. 121 to allottees. 3) All records of allotted Plot No. 7 of Sub Division of Survey No. 110 part, Lote No. 121, Salvador de Mundo village, made of 18 plots, approved by the Chief Town Planner vide dated 17/03/1977, and sent to the Administrator, Administracao das Comunidades, Mapusa, on the Sub-Division of Lote No 121 situated at Salvador de Mundo, with reference to its letter No. 78 dated 24/02/1977, with revised Plan of Sub Division....

.....entered in Administration under No. 1421, on 17/02/1977, Book No.1 at page 68V; and all other details of allotment, with or without auction, Government approval, rent fixed, copy of temporary possession granted to allottee/s, N.A. conversion obtained, Final approval of scheme taken and Inspection of all records be provided.

2. It is seen that the PIO has not furnished any reply and as such the Appellant filed a First Appeal on 08/06/2017 and the First Appellate Authority (FAA) vide order dated 04/07/2017, directed the PIO, Office of Administrator of Comunidade, North Zone to furnish the information to the appellant within 15 days of the order.
3. Being aggrieved that despite the order of First Appellate Authority (FAA), no information is been furnished by the PIO, the appellant subsequently filed a second appeal dated 24/08/2017 and has prayed to direct the PIO to furnish the information and for penalty and other such reliefs.
4. **HEARING:** This matter has come for hearing on numerous previous occasions and it is seen that the Appellant has continuously remained absent without intimation to this commission right since 14/02/2018. The APIO, Shri. Bharat Naik Gaonkar, Acting Secretary O/o Administrator of Comunidade, North Zone is present in person.
5. **SUBMISSIONS:** The APIO submits that the information requested by the appellant for sub division of 18 plots in Sy. No. 110 part, Lote No. 121, Salvador do Mundo village pertains to the Comunidade of Serula and the said comunidade is not furnishing the information by taking the stand that Comunidades are not public authorities under the RTI act 2005.
6. **DECISION:** The Commission comes to the conclusion that the PIO is helpless and unable to furnish information mainly due to the fact that the respective Comunidade of Serula is unwilling to furnish information and thus the PIO cannot be faulted.

7. Comunidade bodies have not been declared as Public Authorities and as such they are reluctant to part with information to the PIO, Administrator of Comunidade. This Commission has come across numerous cases where the Comunidades are not furnishing information even after a Memorandum is served on the registrar/Attorney/ escrivao by the PIO.
8. It is pertinent to note that the High Court and the Bombay High Court at Goa in Writ Petition no 1004 of 2017 Comunidade of Mapusa V/s PIO Administrator of Comunidade in its interim order dated 19/01/2018 has stayed the Judgment of the Goa State information Commission dated 04/07/2017 while also staying the Order of the First Appellate Authority (FAA), Addl Collector-II directing the PIO to furnish information. The High Court in its Order dated 12/06/2018 also observed that the information sought is of private nature and therefore ordered that pending the hearing of the petition, the Petitioner (Comunidade) need not supply information as sought for by the Respondent No 2 (PIO, Administrator of Comunidade).
9. In view of the above, the Commission is unable to issue directions either to the PIO, Administrator of Comunidade or to the Registrar / Attorney / Escrivao, Comunidade of Serula to comply with the order dated 24/07/2017 passed by the Additional Collector-II, First Appellate Authority and furnish the information.

Nothing therefore survives in the appeal case which accordingly stands disposed. Consequently the reliefs sought by the appellant in terms of prayer from i to vi are rejected.

With these observations all proceedings in the appeal case stand closed. 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.

(Juino De Souza)
State Information Commissioner

10. The PIO has not been successful only because the respective Comunidade of Mapusa has not furnished the information due to its claim that Comunidade bodies are not public authorities and the PIO has no jurisdiction to call for private information.

11. **Nothing therefore survives in the appeal case which accordingly stands disposed.** Consequently the reliefs sought by the appellant in terms of prayer 2) and 3) stand rejected.

With these observations all proceedings in the appeal case stand closed. 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