

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No:234/2019/SIC-II

Shri Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Khorlim, Mapusa Goa
403507.

... **Appellant**

v/s

1. The Public Information Officer,
Main Engineer-I (Diniz D'Mello),
Mapusa Municipal Council,
Mapusa- Goa. 403 507

2. The First Appellate Authority,
The Chief Officer, (Mr. Clen Madeira)
Mapusa Municipal Council,
Mapusa- Goa. 403 507

.....**Respondents**

Relevant emerging dates :

Date of Hearing : 15-01-2020

Date of Decision : 15-01-2020

O R D E R

1. **Brief facts of the Case** are that the Appellant has filed a Second Appeal before the Commission registered on 25/07/2019 being aggrieved with the fact that although he had filed an RTI application dated 06/05/2019 u/s 6(1) seeking information from the Respondent PIO, no reply nor any information has been furnished by the PIO as per section 7(1) and even after on filing the First appeal as per 19(1), on 10/06/2019, the First Appellate Authority (FAA) has not passed any order and as such has prayed for directions to the PIO to furnish the Information sought free of cost immediately and for imposing penalty and compensation, disciplinary action and for other such reliefs.
2. **HEARING:** During the hearing the Appellant Shri. Jawaharlal T. Shetye is absent. The Respondent PIO is represented by Advocate Matlock D'Souza whose Vakalatnama is on record.

3. **FINDINGS:** The Commission on perusing the material at the outset finds that there is a reply filed by the PIO which is on record. As per the reply it is stated that the Appellant was informed to inspect the file vide office letter no MMC/Engg/5475/2019 dated 22/08/2019, however it is seen that the said letter has been address to the Secretary, Mapusa People's Union and not to the Appellant.
4. In any case, the Commission further finds that the First Appellate Authority (FAA) has not passed any Order in the appeal case although the Appellant had filed proper First appeal as per 19(1). The FAA being a quasi judicial body should have applied his mind and decided the First Appeal as per the RTI Act.
5. The FAA is duty bound to see that the justice is done. The Commission finds that such a lapse on part of the FAA clearly tantamount to dereliction of duty and cannot be taken lightly more so as the FAA is a senior Goa Civil Service officer of the rank of Chief Officer.
6. **DECISION:** A Second Appeal under section 19(3) lies against the Order and decision of the First Appellate Authority (FAA) as per section 19(1), however as the FAA has not given any decision and has not passed any Order on the First Appeal, the Commission without going into the merit of the appeal case accordingly remands the matter back to the FAA.
7. The First Appellate Authority(FAA) is directed to issue fresh notices to the parties i.e. both the Respondent PIO and the Appellant in the above appeal case within 15 days of the receipt of this order in any case latest by 05th February, 2020. The FAA shall after hearing the parties decide the First Appeal on merits by passing an appropriate speaking order giving justification for the decision arrived at.

8. The said First appeal should be disposed off within 30 days from the date on which the parties attend on the date of the first hearing. In exceptional cases, the FAA may take 45 days, however where disposal of appeal takes more than 30 days, the FAA should record in writing the reasons for such delay.
9. If the FAA comes to a conclusion that the appellant should be supplied information by the PIO, then he may either i) pass an order directing the PIO to give such information to the appellant or ii) he himself may give information to the appellant while disposing off the First Appeal.
10. It is open to the Appellant if he is still aggrieved by the order of the FAA to approach this commission either by way of a Second Appeal u/s 19(3) or a Complaint u/s 18 as the case may be.

With these directions the above appeal case stands disposed.

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