

GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 309/2019/SIC-II

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

..... Appellant

V/s

1. Public Information Officer,
Mapusa Municipal Council,
Mapusa – Goa. **403 507.**

2. First Appellate Authority,
The Chief Officer,
Shri Clen Madeira,
Mapusa Municipal Council,
Mapusa – Goa. **403 507**

.....Respondents

Relevant emerging dates:

Date of Hearing : 06-01-2020

Date of Decision : 06-01-2020

O R D E R

1. **Brief facts of the case** are that the Appellant vide an RTI Application dated 08/07/2019 sought information u/s 6(1) of the RTI Act, 2005 at 12 points from the Respondent PIO, Mapusa Municipal Council, Mapusa- Goa. The Appellant is *inter alia* seeking information regarding certified copy of the minutes of the meeting held between local MLA, Joshua D'Souza and the Chief Officer Mr. Clen Madeirs on 02/07/2019, the names of all councilors and the Municipal Officials who were asked to attend the meeting, list of names of parties whose cases were adjourned, details of visits of newly elected MLA, Joshua D'Souza to the Mapusa Municipal Council to hear grievances of Mhapsekars and other such related information as contained in RTI Application therein.
2. It is seen that the PIO vide reply no. Admn/RTI/5072/2019 dated 07/08/2019 informed the Appellant with respect to point Nos. 1, 2 & 4 that the details are not maintained in the office records and with respect to point Nos. 3, 5 & 6 it was informed to collect information on payment of Rs. 2/- for each on any working day and with respect to point No.7 it was informed.....

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..... to collect list on payment of Rs. 2/- and that no memo or disciplinary proceedings are initiated against the employees for not attending duties on 06/07/2019, with respect to point No.10 it was informed that the Bio metric machine was not working for the month of July,2019 and with respect point No. 11 & 12 it was informed to collect list on payment of Rs. 2/- and that Shri. Dnyaneshwar Parsekar, Librarian is supervising their work.

3. Not satisfied with reply of the PIO, Appellant filed a First Appeal on 16/08/2019 and it is seen that the First Appellate Authority (FAA) has not passed any order and as such Appellant has subsequently approached the Commission by way of a Second Appeal registered on 31/10/2019 and has prayed to direct the Respondent PIO to furnish information and to impose penalty and for other such reliefs.
4. **HEARING:** During the hearing the Appellant Shri. Jawaharlal T. Shetye is absent. The Respondent PIO, is represented by Shri Vinay Agarwadekar, APIO. The FAA is absent.
5. **FINDINGS:** The Commission on perusing the material on record at the outset 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.
6. 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 officer of the rank of Chief Officer.
7. **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.

8. 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 31st January 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.
9. 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.
10. 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.
11. 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

