

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

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Appeal No. 30/2020/SIC-I

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

....Appellant

V/s

- 1) The Public Information Officer,  
Mapusa Municipal Council,  
Mapusa Goa.
- 2) First Appellate Authority,  
The Chief Officer (Mr. Clen Madeira),  
Mapusa Municipal Council,  
Mapusa-Goa.

.....Respondents

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

Filed on: 30/01/2020

Decided on:03/07/2020

**ORDER**

1. The Appellant, Shri J.T.Shetye has filed the present appeal on 30/1/2020 praying that the Information as requested by the Appellant in his Application dated 30/9/2019 be furnished to him correctly and for invoking penal provisions and compensation.
2. Brief facts of the present proceedings as putforth 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 from the Respondent public information officer of the Mapusa Municipal Council, Mapusa-Goa on 6 points as stated therein in the said application. The Appellant had also enclosed the photocopy of the letter no. MMC/EST/2734/2015 dated 9/4/2015 addressed to the Narendra K. Prabhu and others, shop No. 97,

Municipal Market, Mapusa-Goa by the Chief Officer of Mapusa Municipal Council in respect to 4 showcase notices bearing No.MMC/Est/1932/2015,to notice bearing NO. MMC/EST/1935/2015 all dated 11/3/2015 for the ready reference of the Respondent PIO .

(b) Vide said application dated 30/9/2019, the appellant had sought for following information.

(i) Furnish the names of all the employees appointed by the lessee Shri Narendra K. Prabhu and Brothers to look after the business activities in his four stalls bearing No. B-7,B-10,B27 and B-28 with their ID proof along with their Police verification report if they are migrants non- resident of Goa and Mapusa city.

(ii) Furnish the types of business activities conducted by the lessee Narendra K.Prabhu and Brothers in his allotted stalls bearing Nos B-7,B-10,B-27 and B-28 and furnish me the certified copies of the four trade & Establishment licences along with the sign board licences issued in the name of Shri Narendra K. Prabhu & Brothers for conducting business activities in stall Nos B-7,B-10,B-27 and B-28.

(iii)Furnish certified copies of the Rent Agreement or the Leave and Licence Agreements executed between the lessee of stall Nos B-7,B-10,B-27 and B-28 and (1) Mr. Faruki (2) Mr.Uttam Singh Rajput(3) Mr. Uma Shankar Pande and (4) Mr. Baswant Rajdoot and handling over them the physical possession of Municipal stall No. B-7,B-10,B-27 and B-28 respectively giving them status of sub-lessees tenants with or without the written permission of mapusa Municipal Council.

- (iv) Furnish the exact period and the dates of conducting survey by the officials of Mapusa Municipal council by physically verifying the factual position of Sub-letting of your Municipal premises such as shops/stalls, kiosk, Banka Fixa etc to the third parties by the original lessees and conducting their own business activities by paying handsome units to the lessee without the written permission of Mapusa Municipal Council.
- (v) Furnish the certified copies of the show cause notices bearing Nos.MMC / Est /1932/2015, (2) MMC/Est/ 1933/2015,(3)MMC/Est/1934/2015 and (4) MMC/ Est/ 1935 / 2015 dated 11/3/2015.
- (vi) Furnish the certified copies of the physical inspection reports submitted to the Chief officers of Mapusa Municipal Council Mr. Raju Gawas by the Municipal Inspector Shri Vikas Kamble and the Municipal Inspector Mr. Santosh Dangui (now retired) after they were deputed by Shri Raju Gawas to conduct hte physical verification of Stalls Nos. B-7,B-10,B-27 and B-28 on account of the complaint received by the Mapusa Municipal council complaining of sub-letting the stalls bearing stall No. B-7,B-10,B-27 and B-28 to the third party by the lessee Mr. Narendra K.Prabhu and Brothers.
- (c) 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 as contemplated u/s 7(1) of RTI Act 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 4/11/2019 being first appellate authority in terms of section 19(1) of RTI Act

3. 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 commentated u/s 19(6) of RTI Act as such he is forced to file the present appeal.
4. In this above background the Appellant being aggrieved by action of PIO and of First Appellate Authority (FAA), has approached this commission on 30/1/2010 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.
5. 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 .
6. During the hearing on 13/3/2020 the Advocate Matlock D'Souza sought time to furnish information and to file appropriate reply and 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.
7. 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 and in order to avoid delay in 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 .

8. 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.
9. 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."*

10. 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".*

11. 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”.*

12. 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 .
13. On perusal of the records, it is seen that the application dated 30/9/2019 was filed and received by the Office of Respondent PIO on 30/9/2019 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.
14. The records shows that the first appeal was filed by the appellant on 4/11/2019 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.
15. 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.
16. The information was sought on 30/9/2019 and till date no information has been furnished to the appellant. There is a delay in furnishing the information. Only during the present appeal proceedings the PIO showed his willingness and volunteered to furnish the information to the Appellant.

17. 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.
18. 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.
19. 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.
20. 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.
21. 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