

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

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Appeal No. 27/2020/SIC-I

Shri. Jawaharlal T. Shetye,  
H.No.35/A,W. No-11,  
Khorlim, Mapusa Goa.  
Pincode-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: 26/06/2020

**ORDER**

1. The brief facts leading to the second appeal as put forth by the Appellant Shri Jawaharlal T. Shetye are as under;

(a) The Appellant vide his application dated 1/10/2019 had sought for the information on 4 points as listed therein pertaining to his representation/ complaint dated 20/2/2019 made by him to the Chief Officer/Chairperson of Mapusa Municipal Council with a caption "*Dereliction of duties on the part of Shri Vikas Kamble Municipal Inspector for failing to keep a watch on the premises of illegal constructions of Falari Brothers behind Mapusa Police Station. Ansabhat Mapusa –Goa to ensure that further illegal constructions is not commence. Direction issued to him as per powers vested upon the Chief Officer Mr. Clen Madeira under section 184(19) of Goa Municipalities Act 1968*". The said information was sought

by the Appellant in exercise of his right u/s 6(1) of RTI Act, 2005. The Appellant also enclosed the photocopy of his representation dated 20/2/2019 and stoppage order cum Showcause notice dated 5/2/20218 issued by Chief Officer Mapusa Muncipal Council to *Falari Brothers* to his RTI Application .

- (b) 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 PIO within stipulated time of 30 days 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 5/11/2019 being First Appellate Authority .
- (c) 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.

2. 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.
3. 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 .

4. During the hearing on 13/3/2020 the Advocate Matlock D'Souza sought time to furnish information and to file appropriate reply and then the 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.
5. 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 and hence arguments of the Appellant were heard .
6. It is the contention of the appellant that the 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.
7. I have scrutinise the records available in the file so also submission of both the parties .
8. Section 4 (1)(d) of the RTI Act requires that the public authority to provide reasons for his administrative or quashi Judicial decision to the effected person.
9. The Hon'ble Delhi High Court in writ petition (c)No. 5957/2007; Kusum Devi V/s Central Information Commission has held that;  

"The petitioner certainly has right to ask for "Information" with regards to complaints made by him, action taken and the decision taken thereafter".

10. On perusing the application of the Appellant dated 1/10/2019 filed in terms of section 6 of RTI Act, one could gather that the Appellant was intending to know the action taken report by the Chief Officer of Mapusa Municipal council, status /progress report made on his representation dated 20/2/2019 and certified copies of all noting sheets and all the correspondence letters made by the Mapusa Municipal council in processing the above representations and the names and designations of officers entrusted the duties of processing his above representations.
11. In view of the ratio laid down by The Hon'ble High Court of Delhi in case of Kusum Devi (supra), the Appellant had every right to know the status of his complaint and proceedings conducted therein. As such by applying the above ratio I am of the opinion that the Appellant herein is entitle for the information as sought by him vide his application dated 1/10/2019.
12. It is also seen from the records that both the Respondents have not acted in conformity with the provisions of RTI Act. The PIO, First Appellate Authority and the public authority must introspect that not furnishing of the information, correct and/or incomplete information lands the citizen before First Appellate Authority and also before this commission resulting into unnecessary harassment of the common man which is socially abhorring and legally impermissible such a conduct by both the Respondent is obstructing transparency and accountability appears to be suspicious and adamant vis-a-vis the intent of the Act. Both the Respondents are hereby Admonished and is hereby directed to be vigilant henceforth while dealing with the RTI matters and to comply the provisions of the RTI Act in true spirit.
13. 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.

14. 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.
15. 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.
16. 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 01/10/2019, free of cost within 20 days from the receipt of this order.
- c) Both the Respondents are hereby admonished and 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