

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

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Appeal No. 29/2020/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:03/07/2020

**ORDER**

1. The Appellant, Shri J.T.Shetye has filed present second appeal against Respondent No. 1 Public Information Officer (PIO) of Mapusa Municipal Council Mapusa-Goa and against Respondent No. 2 The First Appellate Authority (FAA), praying that the information as requested by him in his application dated 4/11/2019 at point number 1 to 9 be furnished to him correctly and completely, free of cost and for invoking penal provisions.
2. The brief facts leading to the present Appeal are that the Appellant Shri Jawaharlal T. Shetye by is application dated 4/11/2019 filed u/s 6(1) of RTI Act, 2005 sought certain information from the PIO of Mapusa Municipal Council Mapusa Goa under 9 points as stated therein in the said application. The representation dated 7/7/11 made by Mapusa Jan Jagruti Samiti to the Chief officer, Mapusa Municipal Council, Mapusa-Goa

was also annexed his RTI application. The Appellant has also sought inspection of the records in the said application.

3. Vide above RTI application the Appellant had sought for the following information

- a. Furnish certified copy of the Action taken report from **Jan** and after processing the above **aggrieved** representation dated 07/07/2011 which is self explanatory.
- b. Furnish certified copies of all the notings sheets and certified copies of all the correspondence initiated from your end in processing the above representation dated 07/07/2011 received from Mapusa Jana Jagruti Samiti which is self explanatory.
- c. Furnish the present up-to-date progress report as well as the present up-to-date status report with regards to the above referred representation dated 07/07/2011 received from Mapusa JanaJagruti Samiti which is self explanatory.
- d. Furnish the names and designations of your officials entrusted the duties of processing and initiating appropriate action with regards to the above referred representation dated 07/07/2011 received from Mapusa JanaJagruti Samiti which is self explanatory and presently with whom it is lying pending for other course of action.
- e. Inform me the present staff strength of Mapusa Municipal Council presently working and performing their day to day duties in the office building premises of Mapusa Municipal Council by occupying their allotted seats in their respective cabins, Tables, desks and the chairs along with their designations i.e the Chief Officer, The Accounts Administration Officer(ACAO), The Accounts Taxation Officers (ATO), The Accountant, Municipal Engineers Grade-I, Grade-II and J.E.III,

Automobile Engineers, Senior Supervisors, Supervisors, Municipal Inspectors, upper Division Clerks, (U.D.C), Lower Division Clerk(L.D.C), The Head Clerk, Adhock Head Clerks, Adhock basis LDC's , Sub-staffs(Peon), workers, Bill Collectors, Recovery Officers, Librarian , Driver,worker cum-surplus, contract basis workers, Temporary clerks, stenos. In house advocates, Community organizers sanitary Inspector, Pound Keeper plumbers, Tree Cutters, scavengers, Toilet & w.c cleaners Advocates appointed to look after RTI related case matters outsourcing of staff for handling RTI first appeal cases etc.

- f. Furnish the extract holding capacity of the Mapusa Municipal Council officer building for its employees to performs their duties by occupying their respective seats on a day to day basis and inform me as to how many staff/employees can perform their duties on a single day by occupying and seating on their respective allotted seats in their cabins tables, desks etc.
- g. Furnish the monthly budget with regards to the payment of monthly salary and daily wages of Mapusa Municipal Council towards all t he permanent staff/employees and towards the temporary and contract basis staff/employees engaged by Mapusa Municipal council.
- h. Furnish the names and designation of your staff members permanent and temporary presently on sanctioned maternity leave giving exact period of their sanctioned maternity leave and inform me the steps and measures initiated from your end to fill up their vacancies by recruiting temporary staff to fill up their vacancies.
- i. Under section 2(j)(i) of the RTI Act, 2005 the undersigned applicant would like to inspect the entire

entire records of the recruitment process undertaken by Mapusa Municipal council to fill up the temporary vacancy due to the sanctioned maternity leave to its employees Smt. Akshaya Madkaikar and Smt. Bhagyashri Matkar alias Sneha Pednekar including the minutes of DPC meetings and the records of walk interviews process held in the last week of October 2019 as per your records maintained by Jan Officer .

4. 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 9/12/2019 being First Appellate Authority interms of section 19(1) of RTI Act, 2005.
5. 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.
6. 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.
7. 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 and sought time to file reply and to furnish information . The Respondent No.2 First Appellate Authority (FAA) was initially represented by Shri Vinay Agarwadekar .

8. 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.
9. 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 Respondents to file their say in Appeal proceedings . Since Commission is not equipped with virtual hearing/Video Conferencing, in avoid dealay 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 Respondents 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 .
10. It is the contention of the Appellant 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 PIO 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.

11. I have scrutinise the records available in the file so also submission of Appellant.
12. 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.
13. 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".
14. On perusing the application of the Appellant dated 4/11/2019 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 07/07/2011 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.
15. 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 at point no. 1,2,3,4,of his application dated 4/11/2019.

16. With regards to other information i.e. from point No. 5 to 9 the Appellant was trying to seek the information from the public domain .

17. 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."*

18. 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".*

19. 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".*

20. By subscribing to the ratios laid down in the above matters , 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 .
21. On perusal of the records, it is seen that the application dated 4/11/2019 was filed and received by the Office of Respondent PIO on 4/11/2019 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.
22. The records shows that the first appeal was filed by the Appellant on 9/12/2019 which was received in the Office of First Appellate Authority on the said day itself. As per section 19(6) 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.

23. 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.
24. The information was sought on 4/11/2019 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 information is volunteered to be furnished .
25. 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.
26. 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.

27. 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.
28. 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.
29. 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 4/11/2019, 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 excise 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 and to Chief Officer of the Mapusa Municipality at Mapusa-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