

# GOA STATE INFORMATION COMMISSION

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**Shri Sanjay N. Dhavalikar**, State Information Commissioner

**Appeal No. 133/2020/**

Shri Vasu U. Sawant,  
r/o. H. No. 240, Ashvem,  
Mandrem, Pernem Goa  
403527.

..... Appellant

v/s

The Public Information Officer,  
The Secretary,  
Village Panchayat of Mandrem,  
Mandrem, Pernem – Goa.

..... Respondent

**Filed on : 04/09/2020**

**Decided on : 24/09/2021**

**Relevant dates emerging from appeal:**

RTI application filed on	: 23/01/2020
PIO replied on	: 09/06/2020
First appeal filed on	: 18/03/2020
First Appellate Authority Order passed on	: 24/06/2020
Second appeal received on	: 04/09/2020

## **ORDER**

1. The Appellant Shri. Vasu Uttam Sawant filed second appeal under section 19 (3) of the Right to Information Act, 2005 (hereinafter to be referred as Act) against Respondent, Public Information Officer (PIO), Village Panchayat Secretary of Mandrem, Pernem Goa . The appeal came before this Commission on 04/09/2020 with following prayers :-

- (a) That the appeal may be allowed and the order of the FAA may be quashed and set aside.
- (b) That direction may be given to the PIO to furnish the information as sought in the application dated 23.01.2020.

- (c) That in the event of failure to furnish information, penalty as provided in the Act, may be levied against the respondent .
- (d) For such and further relief which this Hon'ble Court deems fit and proper.

2. The brief facts leading to this appeal, as contended by the Appellant are :-

- a) That the Appellant vide application dated 23/01/2020 had sought from the PIO information pertaining to the proposed construction of protection wall to the nallha in the ward Ashvem of Village Mandrem.
- b) That the information sought is held by the PIO as the proposed construction is within the jurisdiction of Village Panchayat Mandrem. However, the PIO neither replied nor rejected the information within the stipulated period. This amounted to deemed refusal u/s 7(2) of the Act and therefore the Appellant filed first appeal dated 18/03/2020 before the First Appellate Authority (FAA), Block Development Officer, Pernem Taluka, Pernem Goa.
- c) That the FAA disposed the first appeal with direction to the PIO to allow Appellant to inspect the relevant records maintained by the Village Panchayat Mandrem and furnish the information, if available in Panchayat records, within 10 days.
- d) That the FAA ought to have directed the PIO to furnish the information, instead the FAA directed the Appellant to inspect the records for himself and identify and get the information. Being aggrieved with the deemed denial of the information and arbitrary order passed by the FAA, the Appellant filed second appeal before this Commission.

3. The matter was taken up on board and notice was issued to both the sides. Pursuant to the notice the Appellant appeared in person and the PIO was represented by Adv. S. Jadhav and Adv. P. Shahapurkar. Reply dated 19/11/2020 was filed on behalf of the PIO. The Appellant filed written arguments dated 31/03/2021, whereas PIO submitted written synopsis of arguments on 24/09/2021.
4. The Appellant in his written arguments has stated that the PIO has not replied within the stipulated period as mandated by the RTI Act and the conduct of PIO has been suspicious from the beginning. The Village Panchayat of Mandrem had passed resolution to send a proposal to Assistant Engineer, Water Resources Department, to take necessary action in the matter of construction of protection wall on both the side of nallha. Therefore, the office of Village Panchayat must have relevant details and the very same information has been sought by the Appellant, and it is mandatory on PIO to furnish the same to the Appellant.
5. The Appellant has highlighted the fact that he had not asked for inspection of the records, therefore direction of the FAA, BDO, Pernem Taluka, to Appellant to undertake inspection is not justified. The BDO ought to have directed the PIO to furnish information, to the Appellant.
6. The PIO in his reply has stated that the Appellant upon the order of FAA, was allowed inspection of documents, and appellant carried out the inspection on 27/06/2020 at 2.30 p.m. However, the PIO claims that the appellant did not either in writing or orally seek the documents, so inspected. This submission has not been denied by the Appellant, rather an acknowledgement vide note dated 27/06/2020 signed by the Appellant is produced on record by the Respondent.

7. The PIO also submits that the information available in Village Panchayat office has been furnished to the Appellant and further the Appellant has not asked for more information after carrying out inspection, therefore the purpose of application dated 23/01/2020 has been completed and nothing remains in the appeal.

8. The Commission has carefully perused the appeal memo and all submissions made and has arrived at following findings :

(a)The Appellant had sought information regarding proposed construction of protection wall on the sides of nallha in Ashvem Ward of Village Panchayat Mandrem. The Village Panchayat vide a resolution dated 15/02/2018 resolved to request Water Resources Department to construct the protection wall. The concerned Department would obtain relevant permission to construct the protection wall. As the Village Panchayat Mandrem has not undertaken to construct the protection wall, the office of the PIO does not have information related to the said work except the resolution passed by the Panchayat body. The PIO has furnished the available information to the Appellant.

(b) The Appellant vide application dated 23/01/2020 had not sought inspection of documents. However, the FAA vide Order dated 24/06/2020 directed PIO to allow inspection of the records and the Appellant accepted the order by conducting inspection in the presence of PIO on 27/06/2020. The Appellant inspected records and acknowledged the same with no request for any documents. This impliedly means the Appellant has no more request for information.

( c ) Though the PIO has furnished information available in his office and allowed inspection as per the direction of the FAA, the fact that the PIO initially did not reply to the application within the stipulated period as mandated by section 7(1) of the Act cannot be ignored. The PIO furnished part information only after the Appellant filed the first appeal.

(d)It appears that the PIO has shown very little respect towards the provisions of the Act and has little concern of his obligations under the Act. The conduct of PIO could have been more clear and pro-active considering the order of the FAA where, in the original shape, he has not furnished the information. At the same time, it also appears that the Appellant has filed second appeal, and also carried out the inspection, as per the order of FAA.

9. It is seen from the records available that the PIO has furnished information available, though beyond the stipulated period. Also, the Appellant has not asked for any documents after the inspection. Therefore there is no evidence contributing malafide on the part of the PIO. If the circumstances considered cumulatively and the law laid down by the Hon'ble High Court of Bombay at Goa in the case of A.A. Parulekar v/s. Goa State Information Commission and also in the case of Yeshwant Tolio Sawant v/s, State Information Commission is applied, then it does appear that there is no justification for imposing penalty under section 20 of the Act, as prayed by the Appellant.

10. In view of above facts and circumstances the appeal is disposed with the following :-

a) The Appellant may furnish list of documents pursuant to the inspection dated 27/06/2020, with reference to his application dated 23/01/2020, within 7 days of the receipt of this order and the PIO is directed to furnish the said information within 7 days from the date of request from Appellant, free of cost.

b) The PIO is directed to be more diligent and transparent while handling RTI application hereafter.

11. Hence the appeal is disposed accordingly and proceedings stand 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/-

**( Sanjay N. Dhavalikar )**  
State Information Commissioner  
Goa State Information Commission  
Panaji - Goa

