

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 114/2019

Shri. Narsinha Rathwad @Kakankar,
r/o. Kasarwada, Khorlim,
Mapusa, Bardez Goa.

..... Appellant

v/s

1)Public Information Officer,
Mamalatdar of Bardez,
Mapusa – Goa.

2)The Deputy Collector of Bardez,
Mapusa –Goa.

.... Respondents

Filed on : 03/05/2019

Decided on : 27/10/2021

Relevant dates emerging from appeal:

RTI application filed on	: 01/01/2019
PIO replied on	: 25/01/2019
First appeal filed on	: 07/02/2019
FAA order passed on	: Nil
Second appeal received on	: 03/05/2019

ORDER

1. The second appeal filed under section 19(3) of the Right to Information Act, 2005 (for short, the Act), by the Appellant Shri. Narsinha Rathwad @Kakankar against Respondent No. 1, Public Information Officer (PIO),Mamlatdar of Bardez, Mapusa Goa and Respondent No. 2, First Appellate Authority (FAA), Deputy Collector of Bardez, Mapusa Goa came before this Commission on 03/05/2019.
2. Brief facts leading to this appeal, as contended by the Appellant are that; vide application dated 01/01/2019 the appellant had sought information under section 6(1) of the Act on five points, as

mentioned in the application. That the PIO replied vide letter dated 25/01/2019 stating his office does not maintain the tenants and Mundkar list. Aggrieved by the denial of information, Appellant filed first appeal dated 07/02/2019 before the FAA. However, FAA did not hear the appeal within stipulated period and Appellant did not receive any response from the FAA. The Appellant then filed second appeal with prayer that PIO be directed to furnish information, penalty to be imposed on PIO and disciplinary proceeding under service conduct rules may be recommended.

3. The concerned parties were notified pursuant to the notice PIO and Appellant appeared before the Commission. PIO stated that the information sought by the Appellant is voluminous and requested Appellant to undertake inspection. Accordingly, Appellant inspected the records in PIO's office and identified 54 cases relevant to the information sought by him and the PIO agreed to furnish the document pertaining to these cases. PIO vide reply dated 11/06/2019 stated that he will furnish the said documents to the Appellant.
4. However it is seen from the records of this appeal that the PIO did not furnish the complete information and requested for time to search the records in order to furnish complete information. Later as per the directions of the Commission, PIO filed affidavit dated 11/09/2019 stating that the information on point No. 1, 3 and 4 of the application dated 01/01/2019 is furnished to Appellant and on point No. 5, the Appellant has inspected the records and as far as information related to point no. 2 is concerned, only five cases are traced from the ongoing inventory. That the inventory process is under process and if in the process, the cases identified by Appellant are traced, the same will be furnished to him.
5. It is seen from the records that the PIO filed another reply dated 22/11/2019 asking for more time to complete the inventory and Appellant raised no objection to the request. Later PIO filed memo

dated 30/01/2020 regarding completion of inventory. The memo stated that the PIO has prepared fresh inventory with respect to the Court of the Mamlatdar of Bardez Taluka, however information sought by the Appellant is not traceable even after the work of inventory is completed.

6. After perusal of the submissions, the Commission has arrived at following findings :

(a) The PIO, though initially denied the information subsequently made attempts to furnish available information to the Appellant.

(b) The PIO carried out inventory of records of the Court of Mamlatdar of Bardez Taluka and furnished whatever information was traceable.

(c) The Appellant remained present for the hearing initially and never questioned long process of inventory, rather has given in writing that he has no objection to give PIO more time for completing the inventory. However, he preferred to remain absent for the later hearings and hence there is no say from the Appellant on the part information which is furnished to him, as contended by the PIO. Therefore the Commission has no other option but to conclude that the PIO has furnished available information to the Appellant.

7. It is noted by the Commission that the FAA did not hear the first appeal and therefore no order was passed. Section 19(1) of the Act provides filing of the first appeal before FAA. In the present case, the Appellant had filed first appeal, Right to file first appeal is statutory and seeker cannot be deprived of the same. Practice of refusal to entertain the first appeal is not in tune with the provision of the Act. However, there is no any provision under the Act empowering the Commission to impose penalty on the FAA.

8. In the light of above discussion, the appeal is disposed with the following :

(a) The PIO has furnished available information to the Appellant, therefore the prayer for information becomes infructuous.

(b) The FAA is directed to be more diligent while dealing with first appeals filed under the Act.

9. Accordingly, the appeal is disposed accordingly and proceedings stand closed.

Pronounced in the open court.

Notify the parties.

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