

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No.221/2020

Shri. Zacarias Borges,
H.No. 81, Cupem,
Nuvem-Salcete, Goa.

.....Appellant

V/S

1. The PIO, Deputy Town Planner,
Town and Country Planning Department,
Panaji Goa.

2. The FAA, The Chief Town Planner (HQ),
Town and Country Planning Department,
Panaji Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 24/12/2020

Decided on: 19/11/2021

FACTS IN BRIEF

1. The Appellant, Shri. Zacarias Borges, H.No. 81, Cupem, Nuvem-Salcete, Goa by his application dated 11/09/2020 under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from Public Information Officer (PIO), Town and Country Planning Department, IInd Floor, Dempo Tower, Patto Plaza, Panaji:-

1) "Whether a Person needs permission to construct a compound wall in his own property?"

2) If yes under what provision of the Town and Country Planning Act?

3) What are the documents required to build a compound wall in ones own property?

4) Whether a person can build a compound wall in a part of his property?

5) If No under what provision a person cannot build a compound wall in a part of his property?"

2. The said application was replied on 22/09/2020 rejecting the request being vague and not within the purview of sec 2(f) of the Act.
3. Aggrieved with the said reply, the Appellant filed first appeal before Chief Town Planner, Town and Country Planning Department, Dempo Tower, IInd Floor, Patto Plaza, Panaji Goa being the First Appellate Authority (FAA).
4. The FAA by its order dated 05/04/2021 allowed the first appeal directing the PIO to issue information / reference within 10 days from the date of receipt of order.
5. Since the PIO failed and neglected to comply the order of FAA dated 05/04/2021 and furnish the information, Appellant preferred this present appeal under sec 19(3) of the Act, before the Commission with the prayer that PIO be directed to furnish the information as sought by him.
6. Notice was issued to the parties, pursuant to which representative of PIO, Shri. Ramnath Pai, UDC from the office of Town and Country Planning appeared and produced on record the order of FAA and sought time to file his reply. However he did not appear for subsequent hearings. FAA duly served opted not to appear and file his reply in the matter.
7. Perused the pleadings, scrutinised the documents on record considered the written arguments and also oral submissions advanced by learned counsel Adv. J.N. Ferreira.
8. According to Adv. J.N. Ferreira, information sought by the Appellant was simple, clear and specific.

9. Further according to Appellant, he has applied for permission with the competent authority for construction of a compound wall, but till date his file has been kept pending and since no reason/ explanation has been given to him, therefore he was compelled to file RTI application.

10. Adv. J.N. Ferreira, also pointed out one para of the order of FAA, which is reproduced herewith for better clarity:-

"I am aware that the Respondent may be in a position to answer the question, however, extending the scope of RTI to satisfy the queries and answering the questions raised by any applicant would consume additional time of the PIO and will have to devote his official time in answering such queries of applicant, thereby depriving him in conducting other official business of his."

11. By reading of the above reply, one can squarely presume that FAA has not imbibed the preamble of the Act. If we accept this as a ground for refusal of information, the entire spirit and intent of the Act of furnishing the information would be frustrated. Hence application under the Act should attract priority as defined in the Act itself.

The Commission feels that, such type of observation is uncalled for. While dealing with RTI proceedings, the FAA should always keep in mind that, RTI Act is a beneficial legislation enacted to enable the citizen to secure information under the control of public authorities. It empowers the citizen to demand about the public records. The PIO and public authority is bound to furnish all accessible information to the citizen, except where the information is exempted under provision of sec 8 and 9 of the Act.

Thus RTI Act casts statutory obligation on the public authority to disclose the information held by it which is accessible to public. In fact the spirit and intent of the Act is to facilitate the citizen to have information from public authorities.

Sec 5(3) of the Act is relevant to quote here:

"5(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information."

It is the duty of the PIO to not only furnish the information under RTI Act but to render reasonable assistance to the citizen. Sec 6 of the Act which deals with duties of PIO, is quoted below:-

"Request for obtaining information.__(1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to__

(a) XXXX XXXX;

(b) XXXX XXXX;

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing."

Therefore the observation of FAA in his order is uncalled for, unwarranted and not at all in good taste.

12. Be that as it may, the FAA vide order dated 05/04/2021, directed the PIO to guide the Appellant as to where such information would be available and to make it available to him.
13. Record shows that, inspite of the direction of FAA, PIO did not comply with the order of FAA dated 05/04/2021, I find that, the PIO has failed to perform his obligation under the Act.
14. Also the approach of PIO appears to be casual and trivial. Inspite of the opportunity, he failed to remain present for hearings on 12/07/2021, 13/08/2021, 30/08/2021, 23/09/2021, 18/10/2021, 15/11/2021 and 19/11/2021 nor filed his reply rebutting the contention of the Appellant.
15. Considering the above facts and circumstances, I find that the information is required to be furnished, which I hereby do with the following:-

ORDER

- The Public Information Officer-4, Deputy Town Planner, Town and country Planning Department, IInd Floor, Dempo Tower, Patto Plaza, Panaji Goa, shall comply the order of FAA and furnish to the Appellant free of cost, the information as sought by Appellant vide his application dated 11/09/2020 within the period of **FIFTEEN DAYS** from the receipt of this order.
- Appeal disposed accordingly.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner