

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 131/2020/SIC-II

Shri. M. Lakshmikantha,
Flat No. B2/05-06, 1st floor,
Karma Residential Enclave,
Near Pai Hospital, Vaddem,
Vasco da Gama – Goa,
403802

.....Appellant

v/s

1. Public Information Officer (PIO),
Municipal Engineer,
Mormugao Municipal Council,
Municipal Building,
Vasco da Gama - Goa

2. First Appellate Authority (FAA)
Chief Officer,
Mormugao Municipal Council,
Municipal Building,
Vasco da Gama – Goa

..... Respondents

Filed on : 14/08/2020

Decided on : 14/07/2021

Relevant dates emerging from appeal:

RTI application filed on	: 01/06/2020
PIO replied on	: 21/09/2020
First appeal filed on	: 07/07/2020
FAA order passed on	: 26/08/2020
Second appeal received on	: 14/08/2020

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1. The Second Appeal filed by the Appellant Shri. M. Lakshmikantha against Respondent No. 1, Public Information Officer (PIO), Municipal Engineer, Mormugao Municipal Council, and Respondent No. 2, First Appellate

Authority, Chief Officer, Mormugao Municipal Council, under section 19 of the Right to Information Act, 2005 (RTI Act, 2005) came before this Commission on 14/08/2020.

2. Brief facts leading to the second appeal are that-

a) The Appellant, Shri. M. Lakshmikantha, resident of Flat No. B2/05-06, 1st floor, Karma Residential Enclave, Near Pai Hospital, Vaddem, Vasco da Gama - Goa, vide his application dated 01/06/2020 had requested the Respondent No. 1 Public Information Officer (PIO) for providing following information pertaining to ten specific flats which are part of Karma Residential Enclave. The Appellant has given detail description of these ten flats, in the RTI application and also in the second Appeal filed before this Commission:-

- (i) Whether the house tax is charged on the additional habitable super built-up area of the above mentioned ten number of flats, in addition to the floor/carpet area of the flats?
- (ii) If house tax is charged on the additional habitable super built-up area also, then furnish the dimensions (length and breadth) and the area (quantify) measured, of each of the above 10 number of flats.

b) It is the contention of the Appellant that the said PIO failed and neglected to reply. The PIO neither nor sought any clarification, nor rejected RTI application, nor furnished the documents sought, within the prescribed timeframe of 30 days.

c) It is the contention of the Appellant that the Appellant preferred first appeal under section 19 of the RTI Act before the First Appellate Authority, Chief Officer, Mormugao Municipal Council, vide application dated 07/07/2020. However, the FAA neither directed the PIO to furnish the documents sought by the Appellant, nor rejected the appeal.

- d) It is the contention of the Appellant that upon failure of the First Appellate Authority to take cognizance of the first appeal, the Appellant filed second appeal before this Commission.
3. In the above background the Appellant approached this Commission by way of second appeal under sub section (3) of section 19 of the Right to Information Act, 2005, on 14/08/2020. The Appellant prayed:-
- (i) That this Commission call for the records and say of the PIO and the FAA in the said case.
 - (ii) The Commission be pleased to direct the PIO to furnish the documents sought for at the cost and expenses of the PIO.
 - (iii) Any other order deemed fit be initiated against the PIO and the FAA for their total inaction.
 - (iv) The cost to be awarded.
4. After notifying the concerned parties the matter was taken up for hearings. In pursuant to notice of this commission the Appellant appeared in person. Respondent no. 1, PIO, appeared in person along with his lawyer Adv. S. Vaigankar. Respondent No. 2, FAA, Shri. Arvind Bugde was absent initially, but later appeared in person on 31/03/2021 along with the then PIO Shri. Manoj Arsekar and present PIO Ms. Riya Naik.
5. The Appellant has filed two written submissions dated 28/09/2020 and 24/11/2020.
- Contentions in the written submission dated 28/09/2020 are as follows:-
- (a) The FAA issued a notice by book-post asking the Appellant and the Respondent to be present on 19/08/2020. The said notice dated 07/08/2020 was issued after 31 days from the filing of first appeal and was dispatched on 14/08/2020 and was received by the Appellant after the date of hearing, as he was out of station from 18/08/2020 to 23/08/2020.

(b) The Roznama order passed by the First Appellate Authority on 26/08/2020 was received by the Appellant on 18/09/2020, more than a month after filing the second Appeal. As per the directions given by the FAA in the said order, the Appellant met PIO for inspection and sought specific documents. PIO provided 48 pages after charging Rs. 96 (Rupees Ninety Six only) in spite of FAA's order to provide information free of cost.

(c) The Appellant later realized that the PIO has furnished part information and also there is anomaly in the information provided.

Contentions in the written submission dated 24/11/2020 are as follows:-

(a) The Commission had directed representative of Respondent No. 1 to facilitate the refund of Rs. 96, paid by the Appellant for availing the documents. Further, the Commission had directed the Respondent No. 1 to furnish remaining information to the Appellant.

(b) Neither the information is furnished, nor the amount is refunded by the Respondent.

6. The FAA attended hearing along with the then PIO and present PIO and delivered oral arguments during the hearing on 31/03/2021. During the arguments the FAA claimed that the remaining information is ready with the PIO, but since the information is bulky the Appellant should pay and collect the documents. However, the Appellant refused to pay and claimed that the information has to be furnished free of cost to him because it was not furnished within the stipulated period, nor the PIO had sought more time to furnish the information.

7. After perusal of submissions and hearings the Commission has arrived at following findings:-

- (i) The Respondent No. 1, PIO has neither replied the RTI application of the Appellant dated 01/06/2020 within stipulated period of 30 days, nor transferred the application to other authority.
- (ii) The Appellant filed first appeal before the First Appellate Authority on 07/07/2020, but the FAA has passed order on the first appeal on 26/08/2020, after the expiry of 45 days.
- (iii) The first reply sent by Respondent no. 1 PIO to the Appellant to his RTI application dated 01/06/2020 was on 21/09/2020 vide letter no. MMC/PER/RTI/20-21/154; after the order of FAA to afford inspection to the Appellant and provide records free of cost.
- (iv) The Respondent no. 1 PIO asked the Appellant to pay Rs. 96 against document of 48 pages, in spite of FAA's order to provide information free of cost. The Appellant paid Rs. 96 (Rupees Ninety Six only) vide receipt dated 21/09/2020 and collected the documents.
- (v) Later the Appellant realized that complete information is not provided to him by the PIO. Therefore, the Appellant is seeking refund of Rs. 96 from the Respondent No. 1 PIO, but the amount is not yet refunded, in spite of Commission's instructions to do so.
- (vi) The information sought by the Appellant vide RTI application dated 01/06/2020 at point (i) is not yet furnished to the Appellant and information sought at point (ii) is furnished, but incomplete.
- (vii) Respondent no. 1, the then PIO Shri. Manoj Arsekar and the present PIO Ms. Riya Naik have remained present in person and/or through representative before this Commission, but have

not filed any written submission; nor have given an undertaking to furnish the remaining information to the Appellant.

(viii) The First Appellate Authority Shri. Arvind Bugde, Chief Officer, Mormugao Municipal Council remained present before this Commission. The FAA did not file any written submission but claimed in the oral arguments that the information is now ready with the PIO, which the Appellant may collect on payment of charges.

8. In a similar matter, Hon'ble High Court of Haryana in the case of Dalbir Singh V/s Chief Information Commissioner (C.W.P. 18694 of 2011) has observed:-

"There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the information officer might be well within his right to seek extension of time in supply of the said information, expenses for which are obviously to be borne by the petitioner."

9. In the present appeal being heard before this Commission, the Respondent PIO neither furnished complete information, nor sought more time to furnish the information. Rather the conduct of PIO is contrary to the requirements of the RTI Act. The PIO has shown no concern to the application filed by the Appellant under the RTI Act. This Commission in no way can subscribe to such inaction of the authorities and their disrespect towards the provisions of the RTI Act.

10. In the context of Section 7 (9) of RTI Act 2005 Hon'ble High Court of Kerala in writ petition no. 6532 of 2006 in Treesa Irish Vs. The C.P.I.O. and others has observed and held:-

"In fact, there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately direct the resources of the public authority."

11. The FAA during his oral arguments asked Appellant to pay charges because the information is bulky. However the Appellant refused to pay, insisting on getting the information free of charge. This Commission finds the approach of the Appellant is in tune with the provisions of the RTI Act 2005.
12. The Commission would like to highlight the fact that the Right to Information Act 2005 is enacted in order to ensure smoother, greater and more effective access to information and provide an effective framework for effectuating the right of information recognized under Article 19 of the Constitution. Hon'ble Supreme Court has held this view in several cases.
13. In the facts and circumstances of the present case I find ends of justice will meet with following order:-
 - a) The Appeal is partially allowed.
 - b) The Public Information Officer is hereby directed to furnish the information to the Appellant as sought by him vide his RTI application dated 01/02/2020, free of cost, within fifteen days from the date of receipt of this order by him and produce the acknowledgement from the Appellant before this Commission within 10 days thereafter.
 - c) The PIO is hereby directed to refund Rs. 96 (Rupees Ninety Six only) to the Appellant, charged by him for furnishing incomplete information.
 - d) The FAA is directed to instruct the PIO to work in more efficient and transparent way in tune with the spirit of RTI ACT, 2005.
 - e) Rest of the prayers are rejected.
14. The appeal proceedings stand disposed and 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 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.