

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. : 86/2020/SIC-I/

Shri Shriram S.P. Raiturker,
C/o. Adv. S.P. Raiturker,
H. No. 163, Pajifond, Isidoro Emilio Baptista Road,
Margao Goa.403601

..... Appellant

v/s

1. Public Information Officer,
Dy. Director, Vigilance,
Serra Building, Near All India Radio,
Altinho, Panaji Goa.

2. First Appellate Authority,
Director of Vigilance,
Serra Building, Near All India Radio,
Altinho, Panaji Goa.

.... Respondents

Filed on : 12/05/2020

Decided on : 26/07/2021

Relevant dates emerging from appeal:

RTI application filed on	: 15/11/2019
PIO replied on	: 01/01/2020
First appeal filed on	: 28/01/2020
FAA order passed on	: 27/02/2020
Second appeal received on	: 12/05/2020

ORDER

1. The Appellant Shri. Shriram S. P. Raiturkar, R/o. Pajifond Margao, filed an application dated 15/11/2019 under section 6(1) of Right to Information Act, 2005 (RTI Act) seeking information from the Public Information Officer (PIO), Director Administration, PWD, HQ, Altinho Panaji. The Appellant sought information on 6 points regarding advertisement and recruitments of different types of posts in PWD including inspection of files pertaining to such recruitments.
2. PIO, PWD transferred the RTI application to Respondent No. 1, PIO, Deputy Director, Directorate of Vigilance, on 6/12/2019 and

requested Respondent No. 1 PIO to furnish the information as the relevant file was in the possession of the Vigilance Department. PIO, PWD stated in the above mentioned letter that the application of the Appellant could not be transferred within the stipulated time of five days as the concerned file was forwarded to the Government on 5/04/2018 and was not received by her Office till date. The movement of the said file was not traceable and after enquiry it revealed that the said file is presently with the vigilance department and hence the delay is caused.

3. Respondent No. 1 PIO, Deputy Director, Directorate of Vigilance denied the information vide letter dated 01/01/2020 sent to the Appellant. The said letter stated:-

“ It is informed that the relevant matter is under examination and is not yet finalised. Hence the information cannot be spared at this stage in view of section 8 (1) (h) of the RTI Act, as it will impede the process of investigation. In the sense it will cause undue interference in the process of inquiry/examination and the course of action is to be adopted in the matter will be exposed.”

4. As the RTI application was rejected by the PIO, the Appellant preferred first Appeal before the First Appellate Authority (FAA) on the ground that, section 8 (1) (h) is not applicable to the investigation which has been already finalised. However the FAA, while upholding decision of PIO, dismissed the first Appeal.
5. The Appellant being aggrieved, filed Second Appeal before this Information Commission on 12/05/2020. Among other prayers the Appellant prayed for inspection of the relevant files, to impose penalty on Respondent No. 1, and to recommend disciplinary action against Respondent No. 2.

6. Matter was taken up on board and was listed for hearing and accordingly notices were issued to the parties, pursuant to which hearing began. Respondent No. 1 PIO filed reply dated 6/08/2020, copy of which was furnished to the Appellant.
7. In the meanwhile the then Commissioner demitted the Office and the matter was kept in abeyance. The proceedings further commenced on 24/03/2021 before the new Information Commissioner. Appellant and Respondent No. 1 PIO were present and the Respondent No. 2 FAA was absent. PIO undertook to file status report on the next date of hearing. Accordingly Respondent No. 1, PIO filed reply dated 15/07/2021.
8. The Commission has perused Appeal Memo, submissions of the Appellant and the Respondent. After perusal, the Commission has come to following findings.:-
 - a) Directorate of Vigilance had received some complaints regarding recruitment of Junior Engineers and Technical Assistance. Preliminary inquiry was conducted by the Directorate of Vigilance and the report was submitted to the Government and the Government took decision on the said inquiry report. Directorate of Vigilance had submitted inquiry report and had also conveyed the decision taken in the matter, to the PWD. In the mean while the then Secretary, (PWD) sent a note to the Government for review of this decision.
 - b) On the other hand, the Appellant not being aware about the note sent by the then Secretary (PWD) to the Government was insisting for the inspection of the said files. Respondent No. 1 PIO was unable to provide inspection because the matter was not finalised by the Government.

c) The decision of Respondent No. 1 PIO was taken in that particular situation, where the matter was not concluded and closed and also the first Appeal was decided by the FAA accordingly.

9. During the hearing of this Appeal, Respondent No. 1 PIO filed a submission dated 15/07/2021 before this Commission, that the Government has taken a decision to close the matter and the relevant file has been returned to the PWD by Directorate of Vigilance vide letter dated 29/12/2020. The PIO has also produced acknowledgement showing receipt of the file by PWD Official. Therefore, it is now clear that the matter is concluded and closed, but the said file sought by the Appellant for inspection is no more in the possession of Respondent No. 1 PIO.

10. In view of the above discussion the present Appeal is disposed as dismissed. However, the right of the Appellant to file fresh RTI application to the concerned section of PWD for information related to the said file remains open.

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