

GOA STATE INFORMATION COMMISSION

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Appeal No.97/2021/SCIC

Shri. Conceicao Sebastiao Rodrigues,
R/o. H.No. 1725/2, Vasvaddo,
Benaulim, Salcete Goa. 403716.

.....Appellant

V/S

1. The Public Information Officer,
Village Panchayat of Cana Benaulim,
Salcete Goa.

2. The First Appellate Authority,
Office of the Block Development Officer-I,
Mathany Saldanha Complex,
Margao, Salcete Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 21/04/2021

Decided on: 02/11/2021

FACTS IN BRIEF

1. The Appellant, Shri. Conceicao Sebastiao Rodrigues, R/o. H.No. 1725/2, Vasvaddo, Benaulim, Salcete Goa, by his application dated 27/10/2020, filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information in respect of the house bearing No. 1725(2) situated at Benaulim, Salcete Goa.
2. The said application was replied on 23/11/2020 by the then PIO, informing the Appellant that said house is not registered in the office of Village Panchayat Benaulim, Salcete Goa.
3. Not satisfied with the reply of PIO, the Appellant filed first appeal before the Block Development Officer at Margao Goa being the First Appellate Authority (FAA). The FAA by order dated 21/01/2021 disposed the said appeal.

4. Aggrieved by the order of FAA, the Appellant preferred this second appeal under sec 19(3) of the Act, before the Commission with the prayer that respondents be directed to furnish the information.
5. Parties were notified, accordingly the then PIO, Mr. Mario J. Viegas appeared and filed his reply on 13/08/2021, FAA duly served, however did not appear and file his reply in the matter.
6. Perused the pleadings of the parties and scrutinised the documents on record.
7. According to the Appellant, by his application he sought information pertaining to records of the house bearing house tax number 1725(2) assessed by the Village Panchayat of Cana-Benaulim. However, PIO with malafide intention refused to furnish the information.

Further, he contended that the Respondent No. 2, First Appellate Authority (FAA) did not issue notice of hearing and has decided the matter without affording an opportunity and has dismissed the first appeal violating the principles of natural justice.

8. PIO through his reply contended that by letter No. VPCB/1638/2020-21 dated 23/11/2020, he has furnished the information to the Appellant within stipulated time.
9. The Appellant argued that, with malafide intention information is refused to him and in support of his case, he also produced one house tax receipt dated 02/05/2007. On perusal of said house tax receipt, it is noticed that the house number mentioned is H.No. 1725/2.

In the course of final argument, he also produced on record one recent RTI application and reply thereof dated 30/09/2021 received from office of Village Panchayat Cana-Benaulim wherein it

is stated that as per the records, the rental tax House No. 1725/2 stand registered in the name of Conceicao Sebastiao Rodrigues.

Therefore, from the above reply it is clear that house bearing No. 1725(2) is registered in the records of V.P. Cana-Benaulim.

10. As far as Act is concerned, it is designed only to provide available information and designated PIO is duty bound to provide information, if need arises he should take reasonable efforts to compile the information and supply the same to the Appellant. This is not the case that the information is running in thousand pages neither it is exempted from disclosure under section 8(1) of the Act.

11. This is a strange case where the reply was submitted by the PIO and addressed to the Appellant mentioned as house number H.No. 1725/2, Vasvaddo, Benaulim, Salcete Goa, and acknowledged by the applicant. However, the information to the said House number is answered as not registered. The reply of the PIO is evasive and inappropriate.

12. Sec 19(5) of the Act reads as under:-

"19 (5). In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request."

In the present appeal, information furnished by the PIO to the Appellant is misleading, and I hold that PIO has not furnished the information as held by him and intervention of this Commission is required on that aspect.

13. The Appellant alleged that FAA has decided the matter

without issuing the notice to the Appellant, thus violated the principle of natural justice, while deciding the first appeal.

FAA is duly served however neither appeared nor placed on record his reply. The FAA failed to contravene the allegation of the Appellant, nor placed on record any document to show that Appellant duly served and was provided with an opportunity for hearing.

The approach of the FAA appears to be casual and trivial. FAA without passing a reasonable order on merit, dismissed the appeal for the absence of Appellant. While disposing off the first appeal, the FAA should act in a fair and judicious manner as it is quasi-judicial function. It is very important that the order passed by FAA should be a detailed and speaking order, giving justification for the decision arrived yet. Commission expects that the FAA shall be diligent henceforth and deal with the first appeal with caution and with the spirit and intent of the Act.

14. Considering the above fact and circumstances, I find that, the PIO has deliberately withheld the information from being disclosed to the Appellant and smells malafide. I therefore find merit in the appeal and consequently same is allowed, which I hereby do with the following:-

ORDER

- The PIO, Secretary, Village Panchayat Cana- Benaullim, Salcete Goa shall furnish the Appellant free of cost the entire information sought by the Appellant vide his application dated 27/10/2020 within a period of **FIFTEEN DAYS** from the date of receipt of this order.

- Appeal disposed accordingly.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-
(Vishwas R. Satarkar)
State Chief Information Commissioner