

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 26/2020/SIC-II

Shri Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Khorlim, Mapusa Goa, 403507
v/s

.....Appellant

1. Public Information Officer (PIO),
Mapusa Municipal Council,
Mapusa-Goa 403507
2. First Appellate Authority (FAA),
The Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa 403507

..... Respondents

Filed on : 30/01/2020

Decided on : 19/11/2021

Relevant dates emerging from appeal:

RTI application filed on	: 03/10/2019
PIO replied on	: Nil
First appeal filed on	: 05/11/2019
FAA order passed on	: Nil
Second appeal received on	: 30/01/2020

ORDER

1. The brief facts of this appeal are that Appellant vide application dated 03/10/2019 filed under section 6(1) of the Right to Information Act, 2005 (for short, the Act) sought from Respondent No. 1 Public Information Officer (PIO), information on five points, as mentioned in the said application. Appellant did not receive any reply from PIO and considering this as deemed refusal he filed appeal dated 05/11/2019 before Respondent No. 2, First Appellate Authority (FAA). The first appeal was not decided by FAA within mandatory period of 45 days. Being aggrieved

Appellant filed second appeal dated 30/01/2020 before this Commission.

2. The concerned parties were notified. Pursuant to the notice Appellant and Shri. Vyankatesh Sawant, present PIO appeared. PIO filed reply dated 19/04/2021. PIO stated in the reply that he is appointed as PIO on 27/01/2020 by Directorate of Municipal Administration. Mr. Diniz C. T. De Mello was the PIO on the date of RTI application dated 03/10/2019. That the present PIO Shri. Sawant has forwarded the appeal memo to the then PIO Mr. De Mello, therefore Mr. De Mello may be impleaded as PIO in the present matter.
3. The Appellant argued that the information sought is specific and clear and is available in the office of PIO. However, Shri. De Mello neither furnished the information, nor claimed exemption as provided in the Act. Therefore the Appellant deserves the said information. That the PIO is a habitual offender, has disrespected provisions and spirit of the Act and hence he need to be penalised under section 20(1) and 20(2) of the Act. The Appellant also argued against the First Appellate Authority, Shri. Clen Madeira, the then Chief Officer of Mapusa Municipal Council, highlighting the fact that the FAA failed to hear the Appeal.
4. It is seen from the records that notices dated 09/03/2020, 08/03/2021 and 12/08/2021 were issued by this Commission to the Respondents. Shri. Vyankatesh Sawant, present PIO appeared regularly before the Commission and requested Shri. De Mello, the then PIO to appear before the Commission vide letters dated 12/04/2021 and 20/04/2021. Fresh notice dated 12/08/2021 was issued to Shri. De Mello, the then PIO to appear on 16/09/2021 alongwith his say/reply if any. However, Shri. De Mello neither appeared, nor sent any reply to justify his position.

5. 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 recognised under Article 19 of the Constitution. This Act goes to an extent of making a government officer personally and financially liable for not providing information that has been asked by a citizen. In the present case PIO has failed repeatedly to appear before the Commission. Hence bonafide of the PIO are questionable. The conduct of PIO is not in consonance of the provisions and spirit of the Act. From the above mentioned gesture of PIO, the Commission finds that stern warning need to be issued to him.

6. Before closing, the Commission has noted that the FAA did not hear first appeal. Section 19(1) of the Act provide filing of the first appeal before FAA. In the present case Appellant had filed first appeal before FAA. Right to file first appeal is statutory and seeker cannot be deprived of the same. FAA is hereby reminded that practice of refusal to entertain the first appeal is not in tune with the provisions of the Act.

7. In the light of above discussion, the appeal is disposed with the following order:-

(a) The Public Information Officer is directed to furnish the information sought by the Appellant vide application dated 03/10/2019, within 15 days from the date of receipt of this order, free of cost.

(b) The then PIO, Shri Diniz C. T. De Mello is directed to deal with applications filed under the Act, more diligently and ensure that he attend hearing whenever notice is issued by the authorities to him.

(c) The Registry is directed to send a copy of this Order to Shri Diniz C. T. De Mello, the then PIO, on his present address.

(d) All other prayers are rejected.

8. Hence the appeal is disposed accordingly and proceeding 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