

GOA STATE INFORMATION COMMISSION
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Shri Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 40/2021/SIC

Shri Pravinsingh A. Shedgaonkar
H.No. 1615/2, "Satyabhamakrishna"
Opp. Goa Assembly (New) Malim, Appellant
Betim, Bardez-Goa.

v/s

1. The First Appellate Authority
Greater Panaji Planning & Development
Authority,
Mala, Panaji-Goa.

2. The Public Information Officer,
Greater Panaji Planning & Development
Authority, Respondents
Mala, Panaji-Goa.

Filed on : 18/02/2021

Decided on : 13/12/2021

Relevant dates emerging from appeal:

RTI application filed on	: 27/08/2020
PIO replied on	: 25/09/2020
First appeal filed on	: 26/10/2020
First Appellate Authority Order passed on	: Nil
Second appeal received on	: 18/02/2021

ORDER

1. The Appellant, Shri. Pravinsingh A. Shedgaonkar preferred this appeal under section 19(3) of the Right to Information, Act, 2005 (for short, the Act) against Respondent No. 1 First Appellate Authority (FAA) and Respondent No. 2 Public Information Officer (PIO). The brief fact of this appeal are that the Appellant had sought certain information vide application dated 27/08/2020 from the PIO. The Appellant was called by the

PIO for inspection of the records vide letter dated 25/09/2020. However according to the Appellant, information was not furnished and therefore he filed first appeal dated 26/10/2020 before the FAA. The appeal was heard by FAA on 30/11/2020, however no order was passed. Being aggrieved, the Appellant filed second appeal before this Commission.

2. The concerned parties were notified and the matter was taken up for hearing. Pursuant to the notice, Appellant appeared in person and Advocate's Samiksha Vaigankar, Ketan Govekar and Siddhi Parodkar appeared on behalf of PIO. Appellant filed additional document on 16/08/2021, where as PIO filed reply dated 16/08/2021. PIO furnished part information to Appellant on 19/8/2021 and additional information was provided on 20/09/2021. The FAA neither appeared nor filed any reply.
3. The Appellant stated that he visited PIO's office with prior appointment and at mutually agreed time upon his request on more than one occasion to collect the information. However, the PIO neither provided the inspection and nor furnished information. On the contrary, PIO demanded Aadhar card as identity proof to prove citizenship of the Appellant and other document like driving license and voting card was not accepted as identity proof. The Appellant was also asked to provide covering letter alongwith the identity proof, to which the Appellant obliged. The Appellant further stated that inspite of complying every condition imposed by PIO, he was not furnished the information, which implies that PIO has intentionally and malafidely used his authority to deny the information and harass the Appellant.

4. The Appellant further stated that during the hearing of First Appeal, FAA expressed surprise towards this attitude of PIO and the FAA was repentant on the behavior of PIO. FAA heard the matter once, however no order was passed by the FAA. By not issuing directions to PIO, the FAA has tried to cover up bad conduct of the PIO.
5. The PIO contended in his reply that the Appellant is not eligible for information under the Act as he has failed to produce necessary documents to establish his citizenship. Also that the Appellant has not established any larger public interest in seeking the information vide his application dated 27/08/2020. Also that the information sought is huge and voluminous which would disproportionately divert the resources of the public authority. Moreover, the information sought is vague and not specific. The PIO further contended that the Appellant was abusive when he came to the office of PIO and threatened the officers with dire consequences. The PIO is willing to furnish information to the Appellant if any specific information is identified by him, however he has not shown signs of cooperation and remained indifferent.
6. The Commission has perused the records of this case and has heard the argument of both the sides. It is seen that the Appellant vide application dated 27/08/2020 sought inspection of records pertaining to construction of late Shri. Manohar Parrikar Smruti Sthal at Miramar and certified copies of the relevant documents. PIO vide reply dated 25/09/2020 requested Appellant to visit his office to carry out the inspection on any working day during morning session and seek necessary certified copies. Subject to this letter Appellant visited PIO's office with prior appointment, on two occasion, but was denied the

inspection as the PIO was reportedly busy in other work. Appellant visited PIO's office third time, again after seeking prior appointment. However PIO insisted on proving citizenship of the Appellant by asking him to produce photo identity card alongwith covering letter. In spite of compliance, PIO did not furnish the information to Appellant. Therefore, the conduct of PIO in the process is not in consonance of the spirit of the Act.

7. The Commission is astonished to find PIO's contention that the Appellant is not eligible to avail the information under the Act as he has failed to produce necessary documents to establish his citizenship. In fact, appellant is only required to give a written undertaking along with the application stating he is citizen of India, which has been stated by the Appellant in his application dated 27/08/2020. In addition, on 12/10/2020, the Appellant visited PIO's office and furnished copy of his voter card with the covering letter, as directed by PIO. In spite of this compliance, which is not at all mandatory, PIO did not furnish the information to the Appellant. And above all, he claims in his reply filed before this Commission, that the Appellant has failed to establish his citizenship.

8. As if this is not sufficient, PIO contended that the Appellant has failed to establish larger public interest in seeking the said information. The Commission is of the opinion that disclosure of information pertaining to any public project undertaken by the Government authority is necessarily in public interest and Appellant is not required to prove it separately. PIO also contended that the Appellant became abusive and threatened him with dire consequences. It is noted that similar allegations are leveled by the appellant against PIO as well. The Commission does not want to go into these allegations and

counter allegations as this can be dealt by either parties by filing police Complaint, which apparently it appears that neither party has done.

9. From these observations, it is amply clear that PIO made all possible efforts to deny the, information to the appellant. The information sought is in public domain, nor exempted under section 8 of the Act, neither rejected under section 9 of the Act. However PIO did not furnish the same within the stipulated period. On the contrary he subjected Appellant to harassment by inviting him for inspection and not allowing it under the garb, of establishing Appellant's citizenship. The Commission has no ambiguity in holding PIO guilty for contravention of section 7(1) of the Act. It is noted that PIO furnished the information to the Appellant only upon the direction of the Commission, during the proceeding.

10. The Commission has also noted the supercilious attitude of FAA while hearing the First appeal. The Appeal was filed before FAA on 26/10/2020 and FAA issued notice dated 23/11/2020 fixing the hearing on 30/11/2020 which is after the stipulated period of 30 days to decide the first appeal. More over, the FAA did not pass any order on the appeal. Section 19(1) allows a person who does not receive a decision within the time specified, or is aggrieved by the decision of PIO, to prefer an appeal to such officer who is senior in rank to the PIO.

11. Section 19(6) of the Act states that:-

An appeal under sub-section (7) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

12. Contrary to this provision, FAA did not pass any order on the appeal within the stipulated period. Being the officer senior in rank, FAA is expected to set precedent in adhering to the provisions of the Act and if required to give directions to PIO. Instead FAA neither asked PIO to honour provision of the Act, nor adhered himself. Further, FAA even failed to appear before the Commission and file reply to the Appeal. This obdurate determination from the FAA to neglect the provisions of the Act cannot be accepted by the Commission.
13. The conduct of PIO and FAA, senior officers of Greater Panaji Planning and Development Authority is deplorable, not in consonance with the aim and provisions of the Act. However, the information has been furnished, finally, to the Appellant upon the directions of the Commission. Therefore the Commission takes a lenient view in this matter and desist from recommending penal action.
14. Hence the appeal is disposed with the following order:-
 - (a) As the information has been furnished to the Appellant no more intervention of the Commission is required and the prayer for information becomes infructuous.
 - (b) Public Information Officer and First Appellate Authority are directed to honour provisions of the Act while dealing with RTI applications and appeals, hereafter.
 - (c) All other prayers are rejected.

Proceeding stands 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