

# GOA STATE INFORMATION COMMISSION

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

## **Appeal No. 112/2021/SIC**

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

.....Appellant

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

..... Respondents

Filed on : 03/06/2021

Decided on : 10/12/2021

### **Relevant dates emerging from appeal:**

RTI application filed on	: 18/01/2021
PIO replied on	: Nil
First appeal filed on	: 19/02/2021
FAA order passed on	: 30/03/2021
Second appeal received on	: 03/06/2021

## **ORDER**

1. The brief facts of this second appeal filed by the Appellant under section 19(3) of the Right to Information Act, 2005 (for short, the Act) are that the Appellant vide application dated 18/01/2021 sought certain information from Respondent No. 1 Public Information Officer (PIO). PIO did not reply within 30 days and therefore Appellant filed first appeal dated 19/02/2021 before Respondent No. 2, First Appellate Authority (FAA). The FAA vide order dated 30/03/2021 directed PIO to furnish entire information within 20 days. The PIO vide letter dated 30/03/2021 and 30/04/2021 furnished part information. Being aggrieved, Appellant filed second appeal against PIO and FAA, before this Commission

with various prayers such as direction to PIO to furnish remaining information and penalty under section 20 of the Act etc.

2. The matter was taken up on board for hearing. Pursuant to the notice, Appellant and PIO appeared before the Commission. Shri. Vyankatesh Sawant, PIO Engineering/Technical Department, Mapusa Muncipal Council and Smt. Smita Faldesai, PIO Accounts and Taxation Section, Mapusa Muncipal Council filed reply dated 06/09/2021.
3. The Appellant stated that only part information has been furnished to him after the order passed by FAA. Information pertaining to point No. 1, 2, 3(a) 3(b), 3(e), 3(i) and 3(j) is furnished and information sought under point No. 3(c), 3(d), 3(f), 3(g), 3(h) is not furnished to him. He further stated that full information has to be furnished to him.
4. Shri. Vyankatesh Sawant, PIO Engineering /Technical Department stated in his reply, that Shri Bhanudas V. Naik was the PIO of Administration section on the day of RTI application and FAA vide order dated 30/03/2021 directed PIO, Administration section to furnish the desired information to Appellant within 20 days. Shri. Sawant furnished information with respect to point No. 3(e) and 3(i) vide letter dated 30/03/2021 and PIO, Administration section furnished information pertaining to point No. 1, 2, 3(a), 3(b), 3(i) vide letter dated 30/04/2021.
5. Smt. Smita Faldesai, PIO, Account and Taxation section stated in her reply that Shri. Bhanudas V. Naik was the PIO of Administration section at the time of RTI application dated 18/01/2021. FAA vide order dated 30/03/2021 directed PIO, Administration section to furnish information to the Appellant within 20 days. Part information has been furnished to Appellant. However, Shri. Bhanudas Naik, PIO, Administration section retired from service on 30/09/2020.
6. After perusal of the records of this case and after hearing Appellant as well as Respondents, the Commission has arrived at the following findings:-

- (a) The Appellant was not furnished any information during the stipulated period of 30 days from the date of application.
- (b) The FAA directed PIO, Administration section, to furnish information to Appellant within 20 days from the receipt of his order.
- (c) Shri. Bhanudas Naik, the then PIO, Administration section Mapusa Municipal Council did not comply with the direction of FAA. Therefore he is guilty under section 7(1) of the Act as well as guilty of not adhering to the direction of FAA, who is his superior officer.
- (d) Appellant received information sought under point No. 1, 2, 3(a), 3(b), 3(e), 3(i), 3(j) and did not receive information on point No. 3(c), 3(d), 3(f), 3(g), 3(h).
- (e) Information sought by Appellant is in public domain, neither exempted under section 8, nor rejected under section 9 of the Act. Therefore PIO, Administration section is required to furnish the entire information as directed by FAA.
- (f) PIO, Administration Section is guilty of not complying to section 7(1) of the Act as well guilty of not adhering to the directions of FAA, hence liable for penal action under section 20 of the Act.

7. However, it is seen from the records that Shri. Bhanudas V. Naik, the then PIO Administration section retired on superannuation of age on 30/09/2020. Retirement benefits are beyond the scope of attachment, in view of the ratio laid down by the Honorable Supreme Court in the case of Gorakhpur University and Others V/s Dr. Shilpa Prasad Nagendra (Appeal Civil 1874 of 1999). Under these circumstances, the Commission has no jurisdiction to order any deduction of Penalty or Compensation from pension or gratuity or any other retirement benefits of the then PIO Shri. Bhanudas V. Naik, after his retirement.

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

- (a) The present PIO, Administration Section, Mapusa Municipal Council is directed to furnish information sought by Appellant under point No. 3(c), 3(d), 3(f), 3(g), 3(h) vide application dated 18/01/2021, within 15 days from the date of receipt of this order, free of cost.
- (b) All other prayers are rejected.

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