

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 246/2021/SIC

Franky Monteiro,
H.No. 501, Devote,
Loutulim, Salcete-Goa

..... Appellant

v/s

1. The Public Information Officer,
Goa Industrial Development
Corporation,
Patto Plaza, Panaji-Goa

2. The First Appellate Authority,
Goa Industrial Development
Corporation,
Patto Plaza, Panaji-Goa

..... Respondents

Filed on : 30/09/2021

Decided on : 20/12/2021

Relevant dates emerging from appeal:

RTI application filed on	: 23/07/2021
PIO replied on	: 20/08/2021
First appeal filed on	: 24/08/2021
First Appellate Authority Order passed on	: Nil
Second appeal received on	: 30/09/2021

ORDER

1. The brief facts of this appeal filed by Shri. Franky Monteiro, resident of Loutolim Goa are that the Appellant vide application dated 23/07/2021 sought under section 6(1) of the Right to Information Act, 2005 (for short, the Act) information on various points from Respondent No. 1 Public Information Officer (PIO). That he did not receive reply from PIO within stipulated period of 30 days and filed appeal dated

24/08/2021 before the First Appellate Authority (FAA) who is Respondent No. 2 in this matter. Appellant received letter dated 20/08/2021 from PIO requesting him to pay Rs. 446/- to collect the information. As the Appellant received the letter after the expiry of 30 days he refrained from responding to the PIO.

2. It is the contention of the Appellant that he was astounded to receive a letter dated 21/09/2021 seeking time stating that FAA has retired. That the Appellant received no response from FAA within the prescribed time and being aggrieved he preferred second appeal against PIO and FAA. Appellant prayed for complete information free of cost, compensation under section 19(8) (vi)(b) of the Act and penalty be imposed on Respondent under section 19(8)(vi)(c) of the Act.
3. The matter was taken up on board, the concerned parties were notified. Pursuant to the notice, Appellant appeared in person and PIO was represented by his colleagues Pandurang Mayanath and Vinod Dessai. PIO filed reply dated 02/11/2021 alongwith enclosures.
4. Appellant stated during the hearing that he received PIO's reply after filing the first appeal. PIO's letter though dated 20/08/2021, the same is posted on 24/08/2021, after the expiry of 30 days and therefore he decided not to respond to that letter as he had already filed first appeal. Later, to his surprise, he received a letter dated 21/09/2021 stating that the FAA has retired and the authority will get back to the Appellant at the earliest. By stating this, Appellant argued that the unjustified acts of the Respondents in deliberately causing undue delay in furnishing the information is mockery of the

Act, hence the information must be furnished to him free of cost.

5. Shri. Abir C. Hede, the then PIO stated in his reply that he under section 5(4) of the Act sought information from APIOs of different sections of his office and based on the reply received from them, informed Appellant vide letter dated 20/08/2021 to deposit Rs. 446/- towards the information sought by Appellant vide application dated 23/07/2021. The said letter could not be dispatched on the same day due to Muharram holiday and thereafter 21/08/2021 and 22/08/2021 being Saturday and Sunday. PIO further stated that he received no response from Appellant, however the Appellant filed first appeal before FAA and further, filed second appeal before the first appeal was decided by the FAA. Hence the second appeal is premature.
6. The Commission has perused submissions and the records of this case. It is observed that the Appellant filed his application on 23/07/2021 and upon the expiry of stipulated period of 30 days, immediately filed first Appeal. Later, without waiting for expiry of the stipulated period provided for FAA to decide the appeal, Appellant filed second appeal. PIO replied to him vide letter dated 20/08/2021 to deposit Rs. 446/- towards the documents and that he would provide the information sought. However, Appellant did not respond to PIO's request. Had he responded and paid the amount mentioned by the PIO, there is a sufficient ground to believe that he would have received the information as undertaken by the PIO vide his reply.
7. Hon'ble High Court of Bombay, Goa bench at Panaji, in Writ Petition No. 488 of 2011 (Shri. Shivanand Salekar and others

V/s The Goa State Information Commission and other) has held:

“That apart, in the present case, the delay is really not very substantial. The information was applied on 26/10/2009 and therefore, the same had to be furnished by 25/11/2009. On 30/11/2009 itself the complainant made his complaint and no sooner, the petitioner on 15/01/2010 actually furnished the information. If all such circumstances considered cumulatively and the law laid down by this Court in the case of A. A. Parulekar (supra) is applied, then, it does appear that there was no justification for imposing penalty of Rs. 6,000/- upon the petitioner.”

8. In the present matter, records reveal that the information was applied on 23/07/2021 and therefore the PIO had time to reply by 22/08/2021. PIO wrote to Appellant on 20/08/2021, however Appellant filed first appeal on 24/08/2021, before receiving the reply of PIO. There is a marginal delay in receiving the reply of PIO by Appellant, however the delay is negligible and the Appellant could have collected the required information instead of pursuing further appeals. Considering the ratio laid down by the Honorable High Court of Bombay at Goa bench, the Commission concludes that reply dated 20/08/2021 sent by PIO might have been received by the Appellant after the expiry of stipulated period, however the delay is insignificant.
9. Further it is observed that Appellant preferred second appeal before this Commission on 30/09/2021. He had filed first appeal on 24/08/2021 and as per the provisions of the Act he

was required to allow the FAA to decide the appeal within the stipulated period, which he did not do.

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

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.

From the above provision it is clear that the FAA is required to dispose the appeal within 30 days or within extended period of 45 days from the date of filing the appeal.

In the present case, the Appellant filed first appeal on 24/08/2021, means FAA was required to decide the appeal by 23/09/2021 and with extended period, by 08/10/2021. However, Appellant filed second appeal on 30/09/2021 without giving FAA sufficient time to decide.

11. On the background of these facts, it is the considered opinion of the Commission that the Appellant, probably in too much of hurry to receive the information, lost an opportunity to get the information from PIO and later filed a premature second appeal. Hence no relief can be given to him with regard to his prayers and the appeal needs to be disposed.

12. Accordingly the appeal is dismissed. However, the Appellant may approach PIO within 10 days of the receipt of this order and seek the information sought vide application dated 23/07/2021 after paying the required charges.

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