

# GOA STATE INFORMATION COMMISSION

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

## **Appeal No. 33/2020/SIC-II/**

Shri. R. S. Kamat,  
Mahalsa Krupa, Aquem,  
Margao, Salcete-Goa .....Appellant  
v/s

(i) The Public Information Officer (PIO),  
Margao Municipal Council,  
Margao-Goa.

(ii) The First Appellate Authority (FAA),  
Chief Officer,  
Margao Municipal Council,  
Margao, Goa ..... Respondents

Filed on : 05/02/2020

Decided on : 30/07/2021

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

<b>RTI application filed on</b>	<b>: 04/03/2019</b>
<b>PIO replied on</b>	<b>: 28/03/2019</b>
<b>First appeal filed on</b>	<b>: 29/05/2019</b>
<b>FAA order passed on</b>	<b>: Nil</b>
<b>Second appeal received on</b>	<b>: 05/02/2020</b>

## **ORDER**

1. The Second Appeal filed by the Appellant Shri. R. S. Kamat, resident of Mahalasa Krupa, Aquem Margao Goa, against Respondent No. 1, Public Information Officer (PIO), Margao Municipal Council, Margao Goa and Respondent No. 2, First Appellate Authority (FAA), Chief Officer, Margao Municipal Council, Margao Goa, under section 19 (3) of the Right to Information Act, 2005, (RTI Act, 2005) came before this Commission on 05/02/2020.

2. Brief facts leading to the Second Appeal are that-
- a) The Appellant, Shri. R. S. Kamat, vide his application dated 04/03/2019 had requested the Respondent No. 1, Public Information Officer (PIO), for providing information related to Masjid E Siddique Trust Mosque at Aquem, near Power House on following points.
    - i. Copy of final drawing approved for construction.
    - ii. Copy of occupancy certificate.
    - iii. Whether anytime, either before giving occupancy or thereafter MMC official inspected the Masjid, to know basement/stilt parking is provided. Please give name of person who visited the site.
  
  - b) It is the contention of the Appellant that he received a letter dated 28/03/2019 from PIO, Margao Municipal Council requesting Appellant to provide details like construction license number, occupancy certificate number etc. or else visit the office to inspect the records maintained by the council.
  
  - c) It is the contention of the Appellant that the Appellant sent a reminder letter dated 04/04/2019 to the PIO stating it is absurd to note from his letter that although MMC is supposed to keep records of the projects sanctioned, MMC is asking the Appellant to give details of the project. The Appellant once again requested for the information. The Appellant received reply from PIO vide letter dated 22/05/2019 requesting therein to provide construction license number or occupancy certificate number or inspect the records available with the council in order to provide the desired information.

- d) It is the contention of the Appellant that being aggrieved on the deemed denial on the part of the PIO, the Appellant filed an appeal dated 29/05/2019 under section 19 of the RTI Act before the First Appellate Authority, Chief Officer, Margao Municipal Council.
- e) It is the contention of the Appellant that Respondent No. 2, FAA had scheduled hearing on 18/06/2019 at 3 p.m., for which the Appellant was present in person. But the case was adjourned to 25/06/2019. The Appellant conveyed the FAA vide letter dated 25/06/2019 that being a senior citizen he will not be able to attend next hearing and that in the absence of Appellant the First Appellate Authority (FAA) may pass the Order on merit.
- f) It is the contention of the Appellant that he received no communication from the FAA regarding hearing and/or order on his Appeal, therefore he wrote a letter dated 25/09/2019 to FAA asking for the order. It is the contention of the Appellant that the FAA has neither conducted hearing nor passed any Order, as such he was forced to approach this commission.
3. In the above background the Appellant being aggrieved by the action of Respondent No. 1, PIO and Respondent No. 2, FAA, approached this Commission under sub section (3) of section 19 of the Right to Information Act 2005, on 05/02/2020. The Appellant prayed for correct and complete information.

4. After notifying the concerned parties the matter was taken up for hearing by this Commission. Pursuant to the notice of this Commission, the Appellant appeared in person. Respondent No. 1, (present) PIO Shri. Prashant Narvekar appeared in person and Respondent no. 2, FAA was represented by Adv. S. Vaigankar. It was brought to the notice that then PIO is transferred to Ponda Municipal Council. The present PIO Shri. Narvekar has sent intimation of hearing to the then PIO Shri. Uday Naik Desai, at Ponda Municipal Council. Copy of the said letter dated 18/03/2021 is received in this office vide entry number 468 dated 22/03/2021. But the then PIO Shri. Uday Naik Desai remained absent.
5. During the hearing on 22/03/2021 present PIO Shri. Narvekar and the Advocate of FAA Ms. S. Vaigankar agreed to furnish information to the Appellant if the Appellant submits certain documents required to identify the information. The Appellant agreed to provide these documents.
6. During the hearing on 29/04/2021 present PIO Shri. Narvekar and representative of FAA Ms. S. Vaigankar stated before this Commission that as agreed on the last date of hearing, information has been furnished to Shri. Rama Borkar, representative of the Appellant and the same is received by Shri. Borkar on 16/04/2021. Copy of acknowledgement is furnished to the Commission. As the Appellant is a senior citizen and was absent due to covid situation the Commission thought it appropriate to give sufficient time for the Appellant to raise issues, if any, regarding the information

furnished to him. However, the Appellant has not raised any issues during the subsequent three hearing. Therefore, the Commission has come to a conclusion that the Appellant is satisfied with the information furnished to him by the Respondent.

7. Respondent No. 1 PIO Shri. Prashant Narvekar alongwith his Advocate, filed reply before this Commission on 05/07/2021 stating PIO has furnished all the requisite documents to the Appellant, which has been duly acknowledged by the authorized person of the Appellant.
8. Before closing this Appeal, the Commission would like to appreciate the efforts taken by the present PIO Shri. Prashant Narvekar to collect and furnish the information to the Appellant, keeping the spirit of the Right to Information Act intact. The Commission, however takes a serious note of the negative and non cooperative approach of the then PIO Shri. Uday Naik Desai. The then PIO neither furnished information, nor appeared before the Commission even once. The Commission hereby reminds the then PIO Shri. Uday Naik Desai that the Right to Information Act, 2005 goes to an extent of making a government Officer personally and financially liable for not providing information that has been asked by the citizen.
9. Similarly, Respondent No. 2 FAA did not conduct the hearing and no order was passed on the first appeal filed by the Appellant. Section 19(1) of the RTI Act, provide filing of the first Appeal before FAA. In the present case, according to the Appellant, he had filed first Appeal

before the FAA. Right to file first Appeal is statutory and seeker cannot be deprived of the same. Practice of refusal to entertain the first Appeal is not in tune with the provisions of the RTI Act. However, as per the provisions of the RTI Act, only the PIO can be penalized under section 20. There is no any provision under the Act, conferring powers to Commission to impose penalty or initiating disciplinary proceedings against the FAA.

10. In the light of above discussion, following order is passed:-

- (a) Since the information is now furnished to the Appellant and there is no any prayer from the Appellant, nothing more survives in this Appeal. Accordingly the Appeal is disposed and proceedings stand closed.
- (b) Registry is directed to send a copy of this order to the then PIO, Shri. Uday Naik Desai.

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 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.