

# GOA STATE INFORMATION COMMISSION

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

## **Appeal No. 93/2020/SIC-I**

Mrs. Filipina Domnina Filomena Fernandes,  
T-2, Block B, 4<sup>th</sup> Floor, Suman Residency,  
Borda Salcete Goa 403602 .... Appellant  
**V/s.**

1. Public Information Officer (PIO),  
Deputy Collector (Revenue),  
North Goa District, Panaji Goa
2. First Appellate Authority (FAA),  
Additional Collector,  
North Goa, Panaji Goa ..... Respondents

Filed on : 12/06/2020  
Decided on : 23/11/2021

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

RTI application filed on : 06/08/2019  
PIO replied on : Nil  
First appeal filed on : 31/10/2019  
FAA order passed on : 04/03/2020  
Second appeal received on : 12/06/2020

## **ORDER**

1. Aggrieved by non furnishing of information sought vide application dated 06/08/2019 as well as by the order of Appellate Authority , the Appellant Smt. Filipina Dominina Filomena Fernandes filed second appeal under section 19 (3) of the Right to Information Act, 2005 (for short the Act). The Appeal came for hearing on 12/06/2020.
2. The brief facts of the appeal, as contended by Appellant are that she did not receive any reply from Public Information Officer (PIO) within the stipulated time,

therefore first appeal dated 31/10/2019 was filed before First Appellate Authority (FAA). FAA passed order dated 04/03/2020 directing PIO to furnish information available in the file. Appellant contended that 'available in the file' is against the specific provision of the Act and that the information was not furnished by PIO even after the order of FAA. She prayed for complete information and penalty be imposed on PIO.

3. The Appeal was registered and concerned parties were notified. Pursuant to the notice, Appellant appeared through authorized representative. PIO and FAA were represented by their colleagues under authority letter. FAA filed reply dated 06/07/2020. PIO filed reply dated 22/07/2020, additional reply dated 29/07/2020 and another reply dated 07/08/2020. Appellant filed affidavit dated 29/07/2020 and written arguments dated 03/09/2020.
4. The Appellant stated in her submission that PIO was required to furnish information to her within the stipulated period, however she did not receive any reply. That, follow up was done by the Appellant and her representative, however she did not get response from PIO's Office. Later during the proceeding before this Commission, present PIO furnished information, but PIO has tried to hide some facts in the reply. By stating this, the Appellant has mentioned, the sequence of events unfolded in the office of PIO and FAA when she made attempts to get the information.

5. The FAA in his reply stated that after going through the evidence on record he disposed the matter thereby directing PIO to furnish the information available in the file within a period of 10 days from the date of pronouncement of order.
  
6. The PIO Shri Chandresh C. Kunkalkar stated in his reply that he is the present PIO and he undertook thorough search regarding Appellant's application upon the direction of this Commission. It is found that the application dated 06/08/2019 was received by Shri. Ajit Naik, APIO and he did not place the same before the then PIO Smt. Asha Harmalkar, who joined the office on 16/08/2019. That, later, on 26/12/2019 Shri. Kunkalkar was given charge of the post as Smt. Harmalkar proceeded on leave, and later he joined the same office in the capacity of PIO on 18/02/2020. The said matter was referred to him on 15/07/2020 by the judicial section and accordingly the required information has been furnished immediately to the Appellant and the Appellant has endorsed the same.
  
7. The PIO also stated that Shri. Ajit V. Naik, Awal Karkun and APIO who is solely responsible for the delay in furnishing the information has retired and relieved from Government service w.e.f. 31/01/2020 on attaining the age of Superannuation.
  
8. The Commission has perused all the submissions filed by the concerned parties. After careful perusal of all the records the Commission has arrived at following findings:-

The Appellant filed application dated 06/08/2019 and Shri. Ajit V. Naik, APIO received the same in the absence of PIO. Smt. Asha Harmalkar joined as PIO on 16/08/2019, however the application was not forwarded by APIO to PIO and therefore PIO was not aware of the matter. The records in APIO's office shows that the APIO sent reply dated 20/08/2019 to Appellant, but from outward register it is revealed that no such letter was posted to Appellant by APIO. Shri. Ajit V. Naik, APIO retired on 31/01/2020 and no one was posted in his place, nor additional charge was given to anyone. This matter was not referred by the judicial section of his office to the present PIO Shri. Kunkalkar, nor any information was brought to his notice regarding pendency of any Appeal. The matter was referred to Shri. Kunkalkar by judicial section of his office on 15/07/2021, only after the proceeding was initiated by this Commission, and Shri. Kunkalkar, present PIO furnished the information and filed reply before this Commission on 22/07/2021. The Appellant endorsed the receipt of the information.

9. The Commission has noted that the Appellant, after endorsing the information, has raised some issues pertaining to the functioning of office of PIO and FAA. Appellant also has made some allegations pertaining to the working of PIO and FAA. However the issues raised by the Appellant do not fall under the jurisdiction of this Commission, therefore the Commission has not considered the same.

10. The Commission concludes that the Appellant deserves to get the information sought by her. The said information is neither exempted under section 8, nor can be rejected under section 9. PIO was required to furnish the information to the Appellant within the stipulated period. However Shri. Ajit V. Naik, APIO who received the application in the absence of PIO, did not forward the same after the joining of PIO, nor he updated PIO at the time of his retirement. Also, he created false record of Correspondence with the Appellant. This conduct of APIO is deplorable, not at all in consonance of the provisions and spirit of the Act. Being the deemed PIO at the time of receiving the application, it was his responsibility either to furnish the information to Appellant, or transfer the matter to PIO after the joining of PIO; he defaulted the both.

11. However as per the records, the APIO has retired and is entitled for pension. Retirement benefits are beyond the scope of attachment in view of the ratio laid down by the Hon'ble Supreme Court in the case of Gorakhpur University and other V/s Dr. Shilpa Prasad Nagendra (Civil Appeal 1874 of 1999). Therefore this Commission does not have jurisdiction to impose penalty under section 20 (1) and 20 (2) on the official after his retirement.

12. In the light of above discussion and the circumstances mentioned above, nothing remains to be decided in this matter and hence the appeal is disposed as dismissed.

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