

GOA STATE INFORMATION COMMISSION

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Appeal No. 177/2021/SCIC

Anthony Lopes,
234, Cobravaddo,
Calangute, Bardez-Goa 403516.

.....Appellant

V/S

1. The Public Information officer,
North Goa Planning and Development Authority,
Mala, Panaji-Goa.

2. The First Appellate Authority,
North Goa Planning and Development Authority,
Mala, Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 05/08/2021

Decided on: 06/10/2022

FACTS IN BRIEF

1. The Appellant, Anthony Lopes r/o. H.No. 234, Cobravaddon, Calangute, Bardez-Goa by his application dated 26/03/2021 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), North Goa Planning and Development Authority at Panaji-Goa:-

"Kindly provide certified copies of the following:

- 1. Certified copy of plan approved by authorities of construction of Mr Joseph Damian Carvalho alias Damio Jose Carvalho and Mrs. Maria Francisca Carvalho in property surveyed under survey number 249/3 and 249/4 of Sauntavaddo, Calangute village.*
- 2. Certified copy of plan approved by authorities of construction of Mr. Ulysses Silveira and Mrs. Jennifer Silveira and Carmelina Fernandes in property surveyed*

under survey number 249/3 and 249/4 of Sauntavaddo, Calangute village.

3. Certified copies of documents attached to obtaining the said approval.”

2. The said application was responded by the PIO on 21/05/2021 informing that approved plan has been denied being exempted from disclosure under Section 8(1)(j) of the Act.
3. Not satisfied with the reply of the PIO, the Appellant preferred first appeal before the First Appellate Authority (FAA) of North Goa Planning and Development Authority at Panaji Goa on 25/05/2021.
4. Since the FAA failed and neglected to hear and dispose the first appeal within stipulated period, the Appellant preferred this second appeal before the Commission under sec 19(3) of the Act.
5. Notice was issued to the parties, pursuant to which Adv. Kiran More appeared on behalf of the PIO and filed his reply on 23/11/2021. The FAA duly served, opted not to appear before the Commission.
6. During the course of final argument on 04/04/2022, Adv. P. Gaikar invited my attention to the content of paragraph No. 6 of the reply of the PIO dated 23/11/2021 and submitted that information sought by the Appellant can be furnished if the Appellant provides the necessary details.

Considering the nature of request and the grounds under which the information is refused and on clarification of the parties, the Commission intervened and directed the PIO to furnish the copy of approved plan as sought by the Appellant, with the view to achieve the basic aim of the Act to furnish the information and the matter was posted for compliance.

7. On the subsequent date of hearing on 30/06/2022, Adv.P. Gaikar appeared and sought time to locate the file in order to furnish the purported information.
8. During the course of hearing on 29/08/2022, Adv. P. Gaikar appeared and placed on record the additional reply of the PIO which reads as under:-

"2. The Respondent No.1 states that in the Application dated 26/03/2021 the Appellant applied for certified copy of the plan approved by the Authority in respect of the construction of Mr. Joseph Damian Carvalho alias Damino Jose Carvalho and Mrs. Maria Fransica Carvalho in the property surveyed under survey Nos. 249/3 and 249/4 of Sauntavaddo, Calangute village. The Respondent No. 1 further states that as the plan has not been approved by the North Goa Planning and Development Authority, therefore the certified copy of the same cannot be provided.

3. The Respondent No. 1 further states that as regards the other information is concerned at Serial No. ii with respect to the said persons Mr. Ulysses Silveira and Mrs. Jennifer Silveira and Carmelina Fernandes, the plan has not been approved by the North Goa Planning and Development Authority, therefore the certified copy of the same cannot be provided. "

9. Heard both the parties, Adv. P. Gaikar clarified that since the above referred plan has not been approved by the public authority and since the said information was not at all generated by the public authority, records are not available with the public authority for dispensation.

10. Considering the fact and circumstances, I am of the view that there is no malafide intention for non-furnishing the information. It is not the case that the PIO was unwilling to provide the information. As the information is not at all in existence due to non-generation, nothing can be ordered to be furnished to the Appellant.

11. However, parting with the matter, the approach of the PIO and the FAA appears to be very casual and trivial in nature. Under Section 19(1) of the Act, the FAA ought to have disposed off the first appeal within prescribed time, however, in this case the FAA miserably failed and neglected to hear and dispose the matter as mandated by the Act. The failure of the FAA to discharge his statutory function as mandated under the law cannot be countenanced. Therefore, it is appropriate to warn the FAA that henceforth he should discharge his duties with more diligence and cautious manner.

In view of above, the appeal is disposed off.

- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner