

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 248/2021/SIC

Shri. Deepak Gracias
R/o. Karishma Apartments,
'C' Block, Near Cine Vishant,
Aquem, Margao Goa 403601

..... Appellant

V/s

1. The First Appellate Authority,
The Director of Municipal Administration,
Dempo Towers, 1st Floor, Patto,
Panjim-Goa.
 2. The Public Information Officer (PIO),
The Director of Municipal Administration,
Dempo Towers,
1st Floor, Patto, Panaji-Goa
- Respondents

Filed on: 07/10/2021

Decided on: 22/07/2022

Relevant dates emerging from appeal:

| | |
|---------------------------|--------------|
| RTI application filed on | : 27/07/2021 |
| PIO replied on | : 13/09/2021 |
| First appeal filed on | : 31/08/2021 |
| FAA order passed on | : Nil |
| Second appeal received on | : 07/10/2021 |

ORDER

1. Aggrieved by non furnishing of the information by Respondent No. 2, Public Information Officer (PIO) and non hearing of the appeal by Respondent No. 1, First Appellate Authority (FAA), the appellant under section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as 'Act') filed second appeal which came before the Commission on 07/10/2021.
2. The brief facts of this appeal are that the appellant vide application dated 27/07/2021 sought certain information from

the PIO. Upon non receiving any reply within the stipulated period, he filed appeal dated 31/08/2021 before the FAA. Subsequently appellant received a letter dated 13/09/2021 from the PIO requesting to inspect the concerned file. Being aggrieved, the appellant preferred second appeal.

3. Pursuant to the notice issued by the Commission, appellant appeared and filed rejoinder dated 06/12/2021 and written submission on 22/07/2022. Miss Firdous Saba Bepari appeared on behalf of the respondents under letter of authority and filed reply dated 9/11/2021 and affidavit in reply dated 19/05/2022.
4. Appellant submitted that he had requested for information pertaining to his own case, the information sought is clear and specific hence, the same needs to be furnished to him. That after filing of the first appeal, PIO vide letter dated 13/09/2021 requested the appellant to inspect the concerned file and collect the required information. However, when visited PIO's office for inspection, the appellant was not allowed to inspect the concerned file.

Appellant further contended that the information he sought is pertaining to the case filed by him bearing No. 20/2019-DMA before the Director of Municipal Administration and being the applicant it is his right to get a copy of all submissions filed by the respondents, yet the copy was not given to him, hence he was compelled to file RTI application seeking the said documents. That the appellant is also aggrieved with the FAA for non hearing of his first appeal.

5. PIO stated that vide letter dated 13/09/2021 he requested the appellant to inspect the entire file during working hours on any working day and collect the required information as desired.

However, the appellant never showed up to collect the information and filed the second appeal. PIO further stated that he had orally told the appellant that documents requested by him are part of the court file and the appellant was instructed to collect the said documents from the court file.

6. FAA stated that the appellant was requested by the PIO to inspect the concerned file, yet the appellant did not visit PIO's office for inspection. Later the first appeal was heard by the FAA and decided within the time frame provided under the Act and the order was pronounced in the open court on 30/09/2021.

7. After careful perusal of the records, it is seen that the appellant is aggrieved due to the fact that the information is not furnished to him, and the said fact is acknowledged by the respondents. The information sought by the appellant pertains to the case filed by him before the Director of Municipal Administration, who is the FAA in the present matter. The appellant, being the applicant in the said case is eligible to seek the said information. Similarly, the PIO has neither claimed exemption under section 8, nor rejected the information under section 9 of the Act. Hence the requested information needs to be furnished to the appellant.

8. Apart from the findings that the PIO is required to furnish the information to the appellant, the Commission observes certain important aspects of the matter, as below:-

a) As per the contention of the PIO, he requested the appellant vide letter dated 13/09/2021 to inspect the file and according to the contention of the FAA, he heard and disposed the appeal on 30/09/2021. If

both the contentions are true, then the PIO could have produced the information before the FAA during the proceeding of the first appeal, which appears not done by the PIO. Similarly the FAA could have directed the PIO to produce/furnish the information during the proceeding of the first appeal.

b) PIO contends that he had orally told the appellant that the information requested is part of the court file and the appellant is required to collect the same from the court file, since the matter is sub-judice. However, the PIO has not produced any evidence to substantiate his contention and the appellant has denied the said contention of the PIO. Hence, the Commission has not considered the said contention of the PIO.

c) On the other hand, the appellant has submitted that upon receipt of the letter dated 13/09/2021 he visited PIO's office for inspection of the file, yet he was not provided the inspection. However, the appellant has not substantiated his submission with any evidence. Hence, the Commission has not considered the said submission of the appellant.

d) FAA stated vide his reply that the first appeal was heard and decided and the order was passed on 30/09/2021. However, it is noted that copy of the said order has not been furnished alongwith the reply, nor the FAA has disclosed the contents of the order. Similarly, the appellant has stated that he has not received the said order. Hence, the Commission

cannot accept the submission of the FAA regarding his order dated 30/09/2021.

9. With the above-mentioned observations, the Commission concludes that the information sought by the appellant is available in the records of the public authority, the same is neither exempted under section 8, nor rejected under section 9 of the Act, hence the PIO is required to furnish the same to the appellant.

10. The Hon'ble High Court of Delhi in Writ Petition (c) 3845/2007 (Mujibur Rehman V/s Central Information Commission) has held:-

"Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of public authorities or their officers."

11. Subscribing to the ratio laid down by the Hon'ble High Court of Delhi, and as provided in the Act, the Commission holds that the information sought by the appellant is required to be furnished by the PIO. Thus, the appeal is disposed with the following order:-

a) PIO is directed to furnish information sought by the appellant vide application dated 27/07/2021, within 20 days from receipt of this order, free of cost.

b) PIO is directed to process applications received under section 6(1) of the Act, strictly as provided in the Act.

c) FAA is directed to deal with the appeals, received under section 19(1) of the Act, in accordance with the law and furnish an authenticated copy of his orders to the appellant within reasonable period.

d) All other prayers are rejected.

Proceeding stands 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