

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 268/2021/SIC

Mr. Thomas Victor Fernandes,
H. No. 5/83, Maddawada,
Calangute, Bardez-Goa

.....Appellant

V/s

Public Information Officer (PIO),
North Goa Planning and Development Authority,
1st floor, Archdiocese building,
Mala Link Road, Mala,
Panaji-Goa

.....Respondent

Filed on : 28/10/2021

Decided on : 04/08/2022

Relevant dates emerging from appeal:

RTI application filed on	: 22/01/2021
PIO replied on	: Nil
First appeal filed on	: 26/02/2021
FAA order passed on	: 14/10/2021
Second appeal received on	: 28/10/2021

ORDER

1. The brief facts of this appeal are that the appellant vide application dated 22/01/2021 had sought certain information from Respondent No. 1, Public Information Officer (PIO). Upon not receiving any reply within the stipulated period, he filed appeal dated 26/02/2021 before the First Appellate Authority, Member Secretary, North Goa Planning and Development Authority, Panaji-Goa. Being aggrieved by non furnishing of the information by the PIO, the appellant under section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') preferred second appeal before the Commission.

2. Notice was issued to the concerned parties. Pursuant to the notice, Advocate Pronoy Kamat and Advocate Shilpa Kamat appeared on behalf of the appellant and filed submission dated 11/03/2022 and application dated 16/06/2022. Advocate Kiran More and Advocate P. Gaykar appeared on behalf of the PIO and filed reply dated 18/02/2022. Later, submission was filed on behalf of the PIO on 6/07/2022.
3. PIO stated that the concerned file containing the information sought by the appellant is not traceable in the office, hence the authority on 20/01/2022 has filed the complaint before the Police Inspector, Panaji Police Station requesting the Police Inspector to register the complaint with regards to missing of the said file. PIO further stated that in the case the authority is able to trace the said file, the information applied by the appellant will be furnished to him.
4. Appellant stated that, the information asked is very specific and there is no valid reason for the PIO to refuse the information. He further stated that, the information sought , i.e. copy of the approved plan is existing in the record of the authority and if the concerned file is missing then the authority should be able to reconstruct the said file.
5. Advocate Pronoy Kamat, while arguing on behalf of the appellant on 9/05/2022, stated that if the concerned file is really missing from the records then the responsibility has to be fixed for missing of the records. Advocate Kamat further submitted that the appellant is willing to withdraw the present appeal if the authority produces copy of the approved plan.
6. PIO, on the other hand submitted that the efforts are being made to search the missing file and there is no malafide intention on the part of the PIO to withhold the information and the information will be furnished as soon as the file is traced.

7. During the hearing on 6/07/2022 Advocate P. Gaykar appearing for the PIO stated that the authority has finally traced the said file. Advocate Gaykar furnished before the Commission copy of the approved plan as sought by the appellant. Appellant could not collect the same since none was present on his behalf. However, with reference to the submission by Advocate Pronoy Kamat on behalf of the appellant, as mentioned in para 5, the Commission concludes that the information sought has been furnished by the PIO and the present appeal needs to be decided accordingly.
8. It is noted that the first appeal was filed before the FAA on 26/02/2021 and under section 19 (6) of the Act, FAA was required to decide the appeal within 45 days, however FAA has taken more than two hundred days to decide the first appeal. FAA is reminded that under the provision of the Act non disposal of the first appeal within the mandatory period is considered as de-reliction of duty.
9. In the light of the above discussion, the present appeal is disposed with the following order.:-
 - a) Appellant may collect the information furnished by the PIO, from the Registry, within 15 days from the receipt of this order.
 - b) Since the PIO has furnished the information sought by the appellant vide application dated 22/01/2021 the prayer for information becomes infructuous, and no more intervention of the Commission is required in the matter.

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