

GOA STATE INFORMATION COMMISSION

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

Tel: 0832 2437880 E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

CORAM: Shri Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 48/2022/SIC

Vishwanath B. Solienkar,
H. No. 76, Nagmodem,
Navelim, Salcete-Goa 403707.

-----Appellant

v/s

1. The Public Information Officer,
Office of Dy. Conservator of Forests,
South Goa Division, Aquem,
Margao-Goa.

2. The First Appellate Authority,
The Conservator of Forests (Conservation),
Altinho, Panaji-Goa.

-----Respondents

Filed on:-10/02/2022
Decided on: 29/07/2022

Relevant dates emerging from appeal:

RTI application filed on	: 05/11/2021
PIO replied on	: 06/12/2021
First appeal filed on	: 06/12/2021
First Appellate authority order passed on	: 22/12/2021
Second appeal received on	: 10/02/2022

ORDER

1. The second appeal filed under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') by the appellant against Respondent No.1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA) came before the Commission on 10/02/2022.
2. The brief facts of the appeal as contended by the appellant are that vide application dated 05/11/2021 he sought information on two points from the PIO. Since the PIO failed to provide the information within the stipulated period, the appellant filed appeal dated 06/12/2021 before the FAA. Subsequently, he received PIO's reply dated 06/12/2021 wherein incorrect and misleading information was furnished. Later, FAA disposed the appeal vide order dated 22/12/2021. Aggrieved with both the respondents, appellant preferred second appeal before the Commission.

3. Pursuant to the notice, appellant appeared before the Commission and filed written arguments on 13/04/2022. PIO was represented by Shri. Dnyaneshwar Kudalkar, APIO under letter of authority, he filed reply dated 13/04/2022 and later, on behalf of PIO, filed reply dated 04/05/2022 and affidavit on 27/06/2022. Respondent No. 2, FAA was represented by Shri. Rudyard D' Silva and Shri. Amar Heblekar. Shri. Heblekar filed reply dated 13/04/2022 on behalf of the FAA.
4. Appellant stated that PIO with malafide intention chose to deny information sought at serial no. 1, which pertained to the entire survey no. 245 of Raia village. PIO provided false, misleading information referring to survey no. 245 (P) which does not exist, hence, it is pertinent that the PIO produce records of survey no. 245 (P) besides providing the requested information with respect to survey no. 245 of Raia village. Respondent PIO declares private lands as private forests as per his whims and fancies, hence liable for penalty provision under the Act.
5. Appellant further submitted that, in compliance of directions of the National Green Tribunal (NGT) dated 18/08/2020, the authority and the PIO instead of taking corrective action, the intention of the Respondent and authority has been to sneak out of the situation and justify their actions in providing misleading information in pursuit of their corrupt practices by giving friable and untenable excuses which do not stand the test of any reason or rationale. It is further submitted that the spurious excuse put forth in the name of committee having allotted 245/P is misleading, lacks transparency and accountability as it is an undeniable fact that survey no. 245/P does not exist in Raia village.
6. PIO stated that, with respect to point no. 1 of the application, it is to state that identification, qualification and demarcation of private forest is an ongoing task monitored by Hon'ble NGT. The task follows due process notified by the Government of Goa. As per this process, Survey No. 245 (P) of Raia village was initially identified as prospective private forest. Based on filed inspection, enumeration and consequent scrutiny, the Chief Conservator of Forest chaired Review Committee to bring out interim reports of the areas provisionally identified as private forest and whether they are qualifying the criteria of private forest or not. These reports are Govt. approved and submitted before NGT. In this interim report, the said survey number is mentioned as "does not qualify", the criteria of private forest. Demarcation process and maps are made only if the area is qualifying the private forest. Therefore, in this case, as the said survey is not qualifying the criteria, no map was required to be

made as per rules and procedures approved. The interim reports after Govt. approval are published in the department website and is also available with the office, which is enclosed herewith.

7. PIO further submitted that with respect to point no. 2 of the appellant, he has been already informed to inspect the files pertaining to the information requested by him and all the relevant records are open for inspection.
8. FAA stated that based on the arguments put forth by both the sides, the case was disposed wherein PIO was asked to provide the complete information on point no.1 to the appellant. It was held that the information available has been provided to the appellant by the PIO with respect to point no.2.
9. The Commission after carefully perusing the records of the present case observes that the appellant has sought information pertaining to survey no. 245 of Raia village, with respect to demarcation of private forest area, as enforceable by the Forest Department of Goa. PIO while replying has stated that survey no. 245 (P) of Raia village is not demarcated as private forest as on date. However, appellant is not in agreement with the said reply of the PIO and contends that survey no. 245 (P) does not exist in Raia village. Hence, the appellant contends that the information furnished by the PIO is incomplete and misleading.
10. In this background, the Commission on 04/05/2022 directed the PIO to submit clarification on survey no. 245 and survey no. 245 (P) of Raia village. Subsequently, on 27/06/2022 PIO filed an affidavit with a statement as below:-

"It is to submit that Part of Survey No. 245 was identified as prospective private forest by Araujo Committee and this was mentioned in the said committee report as Survey No. 245 (P). In 1st interim report of the Review Committee chaired by the Chief Conservator of Forests, this part of Survey No. 245 (i.e. Survey No. 245 (P) was reported as "does not qualify" the criteria of private forest. This report was govt. approved and also submitted to Hon'ble NGT.

Thus, it is to clarify that the portion of land mentioned as Survey No. 245 (P) falls entirely within Survey No. 245 and consequent to the 1st interim report, no portion of Survey No. 245 qualifies as private forest, as on date."

11. Thus, from the above para, it is now clear that part of the survey no. 245 was identified as prospective forest by Araujo Committee and the same was mentioned in the Committee report as survey no. 245 (P), however, no portion of survey no. 245 qualifies as private forest since the same was reported by the Review Committee as does not qualify the criteria of private forest.
12. This being the case, the Commission concludes that the PIO has furnished the information as available in records, appellant in his arguments dated 13/04/2022 has prayed for penal action against the PIO for declaring private lands as private forests as per his whims and fancies. Such an action, if taken by the PIO, does not fall within the jurisdiction of the Commission, hence the said prayer cannot be considered.
13. In the background of the facts of the case and the findings mentioned above, the Commission holds that the PIO has furnished the information as available, though the appellant is not satisfied with the information furnished to him. Hence, in order to keep the spirit and intent of the Act intact, the appellant needs to be provided the inspection of the relevant records, and the appeal needs to be disposed accordingly.
14. In the light of above discussion, the present appeal is disposed with the following order:-
 - a) Appellant, if desires, may undertake inspection of the records pertaining to his application dated 05/11/2021, within 15 days from receipt of this order.
 - b) PIO is directed to provide for the inspection as mentioned above, if sought by the appellant and furnish information identified by him, within 10 days from the last day of inspection, free of cost.
 - c) 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