

**GOA STATE INFORMATION COMMISSION**

“Kamat Towers” 7<sup>th</sup> Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.scic.goa.gov.in](http://www.scic.goa.gov.in)

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

**Appeal No. 106/2022/SIC**

Mr. Pramod V. Naik Gaonkar,  
H. No. 103, Delem,  
Canacona-Goa 403702.

-----Appellant

**v/s**

1. The Public Information Officer,  
Dnyan Prabodhini Mandal's,  
Shree Mallikarjun & Shree Chetan Manju Desai  
College of Arts, Science & Commerce,  
Delem, Canacona-Goa 403702.

2. The First Appellate Authority,  
Dnyan Prabodhini Mandal's,  
Shree Mallikarjun & Shree Chetan Manju Desai  
College of Arts, Science & Commerce,  
Delem, Canacona-Goa 403702.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 22/04/2020 & 09/02/2021
PIO replied on	: Nil
First appeal filed on	: 19/04/2021
First Appellate Authority order passed on	: Nil
Second appeal received on	: 13/04/2022
Decided on	: 17/10/2022

**ORDER**

1. The second appeal filed by the appellant under Section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), came before the Commission on 13/04/2022.
2. It is the contention of the appellant that, vide application dated 22/04/2020 he had sought information on four points. Since the application was not replied he filed another application dated 09/02/2021. Aggrieved by non furnishing of the information appellant vide application dated 19/04/2021 preferred appeal before FAA. The said appeal was not heard and disposed, as provided by the Act. Being aggrieved, appellant approached the Commission by way of second appeal.
3. Notice was issued to the concerned parties, pursuant to which Shri. Sudan Naik Gaonkar appeared on behalf of the appellant under authority letter. Advocate Ravi Gawas, Advocate Sachit Masukar and

Advocate Jaiwant Velip appeared on behalf of the PIO. Reply to the application for delay was filed by the advocate for PIO on 19/08/2022 and a submission was filed on 15/09/2022 on behalf of PIO. Appellant filed written say, received in the registry on 10/10/2022.

4. PIO vide reply dated 19/08/2022 registered his objection to the application for condonation of delay filed by the appellant alongwith the appeal memo. PIO contended that, the appellant has not stated correct facts before the Commission, the present appeal is filed after the expiry of almost eight months and has not made out his case to grant the condonation of delay. PIO further stated that, the appellant has filed application on 09/02/2021, the same was replied on 13/03/2021. Then appellant filed first appeal on 19/04/2021, reply to the appeal was sent to appellant on 17/05/2021. That if the appellant was aggrieved by the said letter dated 17/05/2021, he ought to have filed appeal before the Commission on or before 17/08/2021, whereas, the second appeal has been filed on 13/04/2022. Hence, the application for condonation of delay, be dismissed.
5. Later, on 15/09/2022 Advocate Ravi Gawas while arguing on behalf of the PIO stated that, the PIO has furnished the information vide letter dated 30/11/2021 to the satisfaction of the appellant. Similarly, the appeal has been filed in violation of period of limitation, hence the appeal be dismissed.
6. Appellant submitted that, he had sought information on four points vide application dated 22/04/2020. He received reply dated 18/05/2020 from the Chairman of the Institute and not from the PIO stating that, due to Covid-19 pandemic, meeting of the Trust could not be held and required information cannot be provided. PIO of the authority / institute did not reply, nor furnished the information. Later, he filed another application dated 09/02/2021 seeking the same information, again not replied within the stipulated period by the PIO. Appellant further stated that, the first appeal filed by him also was not heard by the FAA.
7. Appellant further submitted that he had filed a complaint under Section 18 of the Act before the Commission and during the proceeding of the said complaint, PIO vide letter dated 30/11/2021 furnished information only on point 1 and rest of the information was not furnished. Appellant vide application of delay, filed alongwith the appeal, has requested the Commission to condone the delay in filing the present appeal.

8. The Commission has perused the reply, other submissions and heard arguments of both the sides. After careful perusal, the Commission finds that the present matter is a rare and unique case where information is not only denied to the appellant, but the authority represented by the PIO and FAA has outrightly neglected the provisions of the Act. It appears to the Commission that, the authority and its office bearers including the PIO and FAA are ignorant of the provisions pertaining to furnishing of the information by responding under Section 7 (1) of the Act and provisions pertaining to disposal of appeal under Section 19 (6) of the Act.
9. It is noted that, the appellant vide application dated 22/04/2020 had requested for information on four points. He received a reply dated 18/05/2020 from the Chairman of the institute stating that due to Covid-19 pandemic situation the meeting of the Board of Trustees/ Governing Body could not take place, the points raised in the application will be addressed once it is discussed in the meeting. After receipt of this bizarre reply, appellant on 09/02/2021 filed another application seeking the same information and to his surprise he received a reply dated 15/03/2021 from the Principal of the Institute stating that he is directed to inform that, the General Body meeting of the Trust could not be convened due to increase in Covid-19 cases and the matter will be discussed in the ensuing meeting of Board of Trustees. Being amazed and aggrieved, the appellant filed first appeal dated 19/04/2021. Here, instead of FAA hearing and disposing the appeal, Chairman of the institute vide letter dated 17/05/2021 informed the appellant that the Board of Trustees meeting could not be held due to ongoing pandemic issue and the matter will be discussed in the forthcoming meeting of Board of Trustees which is not yet scheduled.
10. Based on the chronology as narrated above, the Commission reminds the authority in the present matter, and the PIO and the FAA in particular that, the Right to Information Act is a time bound Act and the Act has enshrined certain responsibilities and duties on the authority as well as the PIO and the FAA.
11. Section 5 (1) of the Act requires the public authority to designate one or more PIO to provide information to person requesting for information under the Act. Such PIO under Section 5 (2) is mandated to receive application for information and under Section 5 (3) of the Act to deal with the request from person seeking information and render reasonable assistance to the information seeker. Section 5 (4) provides for PIO to seek help of any other officer in the discharge of

his duty. It means that the PIO is a designated officer and representative of the institute, who is responsible to ensure compliance of the Act by processing the applications and responding to the applicants within the stipulated period.

12. Further Section 7 (1) of the Act requires PIO to process and dispose the request of the seeker within thirty days. Disposal of request may result into furnishing of information on payment of prescribed fees or rejection of request under Section 8 and / or Section 9 of the Act. Section 7 (2) states that, if the PIO fails to give decision within the specified period then the same is considered as deemed refusal of the request.
13. Next, any person who does not receive a decision within the time specified or is aggrieved by a decision of the PIO, under Section 19 (1) may prefer an appeal to such officer who is senior in rank to the PIO in the authority. Such officer is recognized as First Appellate Authority (FAA) under the Act. Similarly, Section 19 (5) provides an opportunity to the PIO to prove before the FAA that his denial of request was justified. Also, Section 19 (6) mandates FAA to dispose the appeal within maximum of forty five days. Hence, it is mandatory on FAA to dispose the appeal within the time frame of forty five days.
14. Therefore, it is amply clear that the designated PIO has to respond to the application within thirty days and the FAA has to dispose the appeal within forty five days. Also, it is important for the public authority to designate the PIO and the FAA and to know that the Act recognizes only the PIO and the FAA, and no other office bearer of the authority including the Chairman, can be entertained under the Act.
15. The Commission has noted the facts that the appellant has filed the second appeal after much delay of about eight months and the Advocate for the PIO has objected to the application for condonation of delay. Section 19 (3) states that, the appellant can file second appeal within ninety days from the date on which the decision should have been made or was actually received. However, the Proviso to the said section allows the Commission to admit the appeal after the expiry of the period of ninety days. The Commission, in this matter has allowed the present appeal though the same is filed after the expiry of ninety days, mainly keeping in mind the object and spirit of the Act.
16. The preamble of the Act states:-

“The Right to Information Act, 2005 , An Act, To provide for getting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commission and for matters connected therewith or incidental thereto.”

The Act aims, and the Commission intends to ensure smoother, greater and more effective access to information and provide an effective framework for effectuating the right to information, recognised under Article 19 of the Constitution. The Commission, in the same spirit has admitted and heard the present appeal.

17. It is seen from the records that the appellant had sought information on four points and the PIO has provided the information on point no. 1. PIO has replied to point no. 3 as No, meaning the Trust has not executed sale deed in respect of the area in survey no. 288/3, hence the information on point no. 3 is nil. However, the PIO is required to furnish the information on point no. 2 and 4 of the application, since there is no record available before the Commission, pertaining to the compliance in the said matter by the PIO.
18. The appellant, while praying for the remaining information has also prayed for some other relief such as instructions to the Trust to arrange for certified Government surveyor and do the demarcation, advise the Trust to settle the matter amicably etc. The Commission has no jurisdiction to issue directions to the public authority on the above mentioned prayers, hence these prayers cannot be considered.
19. In the light of above discussion, the present appeal is disposed with the following order:-
  - a) PIO is directed to furnish information sought by the appellant under point no. 2 and 4 of the application dated 09/02/2021, within 15 days from the receipt of this order, free of cost.
  - b) All other prayers are rejected.
  - c) PIO is directed hereafter, to respond to the applications received under Section 6 (1) of the Act, within the stipulated period.
  - d) FAA is directed hereafter to hear and dispose appeals received under Section 19 (1) of the Act, as provided by the law.

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