

**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. 124/2022/SIC**

Nazareth Baretto,  
R/o. H.No. 126, Borda,  
Margao, Salcete-Goa 403602.

-----Appellant

**v/s**

1.The Public Information Officer,  
Office of the Deputy Collector and S.D.O.,  
Salcete,  
Matanhy Saldhana Administrative Complex,  
Margao-Goa.

2. The Additional Collector-I,  
First Appellate Authority,  
South Goa District,  
Margao-Goa.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 30/03/2021
PIO replied on	: 27/04/2021
First appeal filed on	: 02/08/2021
First Appellate Authority order passed on	: 24/02/2022
Second appeal received on	: 09/05/2022
Decided on	: 21/11/2022

**ORDER**

1. The second appeal filed 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 09/05/2022.
2. The brief facts of the appeal, as contended by the appellant are that vide application dated 30/03/2021 he had sought from the PIO information on three points. PIO, vide reply dated 27/04/2021 requested him to pay the charges towards the documents. In spite of number of visits he was not provided the information. Hence, vide appeal dated 02/08/2021 he approached the FAA. FAA, vide order dated 24/02/2022 rejected the appeal. Being, aggrieved by non-furnishing of the information by the PIO and by the order of the FAA, appellant appeared before the Commission.
3. Pursuant to the notice, Shri. Abhishek A. Naik, Awal Karkun appeared on behalf of the PIO under authority letter and filed reply dated

10/06/2022. Appellant appeared in person, filed written arguments on 19/07/2022.

4. PIO submitted that, two applications dated 30/03/2021 were received requesting him to furnish information from the files of Smt. Sebastiana Cardozo and Shri. Nazareth Baretto. PIO requested the appellant to make payment and collect the documents from the said files. The appellant visited the office and paid required fees and collected documents pertaining to Smt. Sebastiana Cardozo, however the payment towards the letter issued with respect to the file of Shri. Nazareth Baretto was not done by the appellant, hence copies of the same file were not provided to the appellant. PIO further stated that the information sought is not denied and that the PIO had replied to the appellant within the stipulated period provided under the Act.
5. Appellant while pressing for the information argued that, upon receiving reply, he visited PIO's office on number of occasions, yet he was not provided the information. Further, the FAA has erred in holding that the PIO had informed the appellant to collect the information which is available in the office and that no information is denied. Appellant further stated that, it becomes clear from the reply of the PIO filed before the FAA that Shri. Nazareth Baretto had applied for regularization of unauthorized construction vide two applications dated 15/12/2016 and 23/12/2016 and the PIO's office found only one application dated 15/12/2016 and that the other application dated 23/12/2016 was found during the proceeding of the first appeal, hence it is clear that complete information was not furnished by the PIO.
6. The Commission has perused the records of the instant case. Upon careful perusal it is seen that, the appellant vide application dated 30/03/2021 had sought information with respect to his application cum self-declaration for regularization of unauthorized construction, filed on 23/12/2016. Meaning, the appellant had sought information pertaining to his application cum self-declaration filed on 23/12/2016 and the said information was found only during the proceeding before the FAA. This means, the information sought by the appellant was not traceable in the office of the PIO during the stipulated period, hence the same could not be furnished to the appellant. Later, during the proceeding of the first appeal, PIO informed the FAA that the said information is found in the records and the FAA held that the information has been furnished to the appellant. However, the appellant has contended that he has not received the

information, at the same time PIO has not produced any documental evidence to show that the information was furnished to the appellant.

7. This being the case, the Commission observes that, the information sought by the appellant could not be furnished within the stipulated period by the PIO, since the same was not traceable. Nevertheless, the relevant documents were found later in the records. It is noted that the PIO at no point denied the said information, rather took conclusive efforts to search the records. In the background of these facts, the Commission concludes that, the PIO is required to furnish the information to the appellant . However, PIO cannot be held guilty for contravention of Section 7 (1) of the Act, since no malafide on the part of the PIO has been established.
8. In the light of the above discussion, the present appeal is disposed with the following order:-
  - a) PIO is directed to furnish information sought by the appellant vide application dated 30/03/2021, within 15 days from the receipt of this order, free of cost.
  - b) 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

