

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 134/2022/SIC

Satu Kushali Velip,
H.No. 05, Subdalem,
Padi Barcem via-Cuncoim-Goa 403703.

-----Appellant

v/s

1. The Public Information Officer,
Goa Commission for SC/ST,
Shram Shakti Bhavan, Gr. Floor,
Patto, Panaji-Goa.

2. Triveni Velip, Secretary/ CEO,
First Appellate Authority,
Goa Commission for SC/ST,
Shram Shakti Bhavan, Gr. Floor,
Patto, Panaji-Goa.

-----Respondents

Filed on: 19/05/2022
Decided on: 11/08/2022

Relevant dates emerging from appeal:

RTI application filed on	: 18/01/2022
PIO replied on	: 08/02/2022
First appeal filed on	: 21/02/2022
First Appellate authority order passed on	: Nil
Second appeal received on	: 19/05/2022

ORDER

1. The brief facts of second appeal filed by the appellant are that, the appellant vide application dated 18/01/2022 had sought certain information from Respondent No.1, Public Information Officer (PIO). Aggrieved with the reply dated 08/02/2022 issued by the PIO, the appellant filed appeal dated 21/02/2022 before the Respondent No. 2, First Appellate Authority (FAA). Being aggrieved by non furnishing of the information and non hearing of the appeal 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, pursuant to which, appellant appeared and prayed for the information. PIO appeared on 17/06/2022 and filed an affidavit on 07/07/2022. FAA also filed reply on 07/07/2022.
3. Appellant stated that, he had sought information on 3 points which was not furnished by the PIO. Information was pertaining to the scrapping of the posts of Mining Field Supervisor. Further, FAA did

not hear the first appeal within the mandatory period and passed no order. Hence, he is aggrieved with the PIO as well as the FAA.

4. PIO vide affidavit submitted that, information as available in the records of the authority was furnished to the appellant vide reply dated 08/02/2022. Under the Act, only such information as is available and existing and held by the public authority or under the control of the public authority can be furnished and the PIO cannot create any information subsequent to the application.
5. FAA stated that, the information as is available has been furnished by the PIO. FAA further stated that the appellant is challenging the judgment passed by the Chairperson of the Goa Commission for SC/ST and the PIO as well as the FAA are not competent authority for providing remedy to the appellant.
6. Upon perusal of the records it is seen that, the appellant has requested for information on 3 points. PIO informed the appellant that the information requested pertains to the judgment passed by the Chairperson of the Goa Commission for SC/ST in case no. 2/324/GCSCST/2019-20 and accordingly information as available has been furnished. FAA neither heard, nor disposed the first appeal.
7. It is noted from the records that the above mentioned judgment was passed on the basis of written submission made by the respondent in the said case i.e. Directorate of Mines and Geology, Panaji-Goa. The said matter comes under the purview of quasi-judicial authority of the Chairperson of the Goa Commission for SC/ST and any information pertaining to the said case is available with the said quasi-judicial authority and not the PIO of Goa Commission for SC/ST. Appellant should therefore, approach the concerned authority to get the desired information pertaining to the proceeding of the above referred case.
8. It is observed that the appellant had filed first appeal before the FAA on 21/02/2022, however, the FAA did not dispose the appeal within the mandatory period. The Act has given statutory right to the appellant to file appeal under Section 19 (1) against the rejection /deemed denial of the information by the PIO and under Section 19 (6) of the Act, the FAA is required to dispose the appeal within the mandatory period of 45 days. The conduct of FAA in this matter is contrary to the provisions of the Act which reflects arrogance in approach and that has caused unnecessary harassment to the appellant.

In another matter before the Commission, Appeal No. 72/2022/SIC, it was noted that, the same FAA had not heard the first appeal within the mandatory period, hence vide order dated 21/04/2022 the Commission had remanded the matter to her for passing an appropriate order. It was only after the direction of the Commission, the FAA had disposed the appeal. Now, in the present appeal, it is again seen that the same FAA has not even heard the appeal which was filed before her under Section 19 (1) of the Act on 21/02/2022.

It appears that Smt. Triveni Velip, FAA is habitual in not honoring the provisions of the Act with respect to the appeals filed before her under Section 19 (1). The Act does not provide for any punishment to the FAA for not disposing the appeal, however, the said conduct of the FAA amounts to dereliction of duty and repeated instances of dereliction of duty should not go unpunished.

Hence, the Commission recommends that the Chief Secretary shall seek an explanation from Smt. Triveni Velip, FAA for not deciding the appeal in conformity with Section 19 (6) of the Act. The Registry shall send a copy of this order to the Chief Secretary, Govt. of Goa.

9. Nevertheless, on the background of facts of the present matter as mentioned herein, the Commission concludes that, the information sought by the appellant is not in the records of the PIO and no relief can be granted to the appellant. Hence, the appeal is disposed as dismissed.

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

