

GOA STATE INFORMATION COMMISSION

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

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 14/2022/SIC

Mr. M. Lakshmikantha,
R/o. Flat no. B2/05-06, 1st Floor,
Karma Residential Enclave,
Near Pai Hospital, Vaddem,
Vasco-Da-Gama, Goa 403802.

-----Appellant

v/s

1. The Public Information Officer,
Municipal Engineer,
Mormugao Municipal Council,
Municipal Building,
Vasco-Da-Gama, Goa.

2. The First Appellate Authority,
The Chief Officer,
Mormugao Municipal Council,
Municipal Building,
Vasco-Da-Gama, Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 19/08/2021
PIO replied on	: 16/09/2021
First appeal filed on	: 27/09/2021
First Appellate Authority order passed on	: 07/10/2021
Second appeal received on	: 11/01/2022
Decided on	: 10/10/2022

ORDER

1. Appellant vide application dated 19/08/2021 filed under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought certain information from Respondent No. 1, Public Information Officer (PIO). Not satisfied with the reply of PIO, he filed appeal before the Respondent No. 2, First Appellate Authority (FAA). FAA directed the PIO to furnish the information within 15 days. In spite of the said order, PIO failed to furnish the information, hence appellant filed second appeal before the Commission.
2. Notice was issued to the concerned parties and the matter was taken up for hearing. Appellant appeared in person and filed submission

dated 22/02/2022 and another submission on 22/09/2022. Advocate V. V. Pednekar appeared on behalf of PIO on 15/03/2022 and undertook to furnish the information, however, later neither furnished the information, nor filed any reply. Advocate Karishma Jogi appeared on behalf of PIO on 06/07/2022 and later on 25/08/2022 Advocate Hyder Khilji appeared on behalf of PIO. Advocate Jogi and Advocate Hyder Khilji also undertook to furnish the information to the appellant, though no reply or submission was ever received from or on behalf of the PIO.

3. Appellant stated that, PIO has failed to furnish the requested information. As per the request of the PIO, he had submitted relevant documents alongwith covering letter dated 13/10/2021. By not furnishing the information, PIO has shown scant respect to the provisions of the Act and has disobeyed the order of the FAA. Appellant further stated that he has visited PIO's office on more than one occasion to collect the documents, yet PIO has evaded the disclosure.
4. Upon perusal, the Commission finds that the appellant had sought information regarding the measurement length and breadth including the super built-up area of four flats in Karma Residential Enclave, Vasco and recording of the meeting held on 30/03/2021 by the Chief Officer who is the FAA in the present matter. PIO evaded the disclosure, hence the appellant approached the FAA by way of first appeal. FAA passed clear directions to PIO to furnish the information within 15 days. PIO, instead of complying with the FAA's order asked appellant to submit some documents including copies of previous complaints filed by the appellant. Appellant complied, still, information was not furnished by the PIO. This being so, the appellant was compelled to file second appeal before the Commission.
5. It is observed that when the matter was taken up for hearing, PIO never appeared in person, nor filed any reply. Advocate V. V.

Pednekar appeared on behalf of the PIO on 15/03/2022, 31/03/2022 and 15/06/2022, each time requesting more time to file reply. In spite of sufficient opportunities Advocate Pednekar furnished no information, filed no any reply. Later, on 06/07/2022 and 25/07/2022 Advocate Karishma Jogi appeared to represent the PIO and undertook to furnish the information, even so the undertaking was not fulfilled. Then Advocate Hyder Khilji remained present for PIO on 25/08/2022. Advocate Hyder Khilji undertook to furnish the information to the appellant on or before 15/09/2022 and appellant agreed to acknowledge the same within one week of the receipt of the information.

6. On this background the registry of the Commission received a submission dated 22/09/2022 from the appellant stating that as on date he has not received any information/ documents from the PIO. Appellant further prayed for the information, imposition of penalty on the PIO and appropriate compensation for the cost he has incurred towards the present matter including advocate's charges for drafting the appeal, notary charges, photocopying expenses and travelling to and from Vasco to Panaji to attend the hearing.
7. The information sought is eligible as information under Section 2 (f) of the Act, the same is neither exempted under Section 8, nor rejected under Section 9 of the Act. PIO's request for submitting additional/ relevant documents was fulfilled by the appellant. FAA had clearly directed the PIO to furnish the information within 15 days. Three authorised representatives of the PIO on three occasion had undertaken to furnish the information. In spite of all these facts, finally the Commission finds that the PIO has not furnished the information.
8. The appellant, a senior citizen of 82 years old appeared regularly before the Commission, travelling from Vasco to Panaji and back, is seeking the said information in order to unearth wrong practices undertaken by the public authority, as contended by him. On the

contrary the conduct of the PIO has remained adamant with least respect to the Act and the authorities and citizens, specifically senior citizen like the appellant in the present matter. Such a deplorable conduct is not at all acceptable to the Commission.

9. Hence, the Commission is of the view that penal action needs to be initiated under Section 20 of the Act against the PIO for not complying with Section 7 (1) of the Act and for not adhering to the directions of the FAA, and for not fulfilling the undertaking given before the Commission. However, the Commission finds it appropriate to call for explanation from the PIO before imposing such penalty.
10. Similarly, the PIO is responsible for causing mental and physical agony and monetary loss to the appellant. Section 19 (8) (b) authorises the Commission to direct PIO/ authority to compensate the appellant for any loss or detriment suffered. However, the Commission shall hear the PIO before asking him to pay the compensation to the appellant.
11. In the light of above discussion, the present appeal is disposed with the following order:-
 - a) The PIO is directed to furnish the information sought by the appellant vide application dated 19/08/2021, within 20 days from the receipt of this order, free of cost.
 - b) Issue notice to the PIO and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) and/ or 20 (2) of the Act should not be imposed against him.
 - c) Issue notice to the PIO and the PIO is further directed to show cause as to why he should not be asked to pay compensation as provided under Section 19 (8) (b) of the Act, to the appellant.

- d) In case the then PIO is transferred, the present PIO shall serve the notice alongwith this order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith full name and present address of the then PIO.
- e) The then PIO is hereby directed to remain present before the Commission on **14/11/2022 at 10.30 a.m.** alongwith the reply to the showcause notice.
- f) The Registry is directed to issue show cause notice to the PIO and initiate penalty proceeding against him.

Proceeding of the present appeal 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

