

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 140/2022/SIC

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

-----Appellant

v/s

The Public Information Officer,
Office of the Administrator of Comunidades,
South Zone, At Margao,
Salcete-Goa.

-----Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 02/08/2021
PIO replied on	: Nil
First appeal filed on	: 23/09/2021
First Appellate Authority order passed on	: 24/02/2022
Second appeal received on	: 25/05/2022
Decided on	: 17/10/2022

ORDER

1. Aggrieved by non furnishing of the information by Respondent Public Information Officer (PIO) inspite of the direction from the First Appellate Authority (FAA) , the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed second appeal, which came before the Commission on 25/05/2022.
2. It is the contention of the appellant that vide application dated 02/08/2021 he had sought certain information from the PIO. His application was not responded by PIO within the stipulated period, hence he filed appeal before the FAA. While deciding the appeal FAA directed the PIO to furnish entire information within 15 days. Yet, the order was not complied by the PIO, hence appellant preferred second appeal.
3. Pursuant to the notice, appellant appeared in person. Shri. Raju R. Dessai, PIO deputed Shri. Amaro Afonso, Escrivao/ LDC, Comunidade of Aquem to appear. Accordingly Shri. Amaro Afonso

appeared and filed a say on 01/08/2022. Appellant filed reply to the say of Escrivao, dated 26/09/2022.

4. Shri. Amaro Afonso, Escrivao, Comunidade of Margao stated that, the Comunidade of Margao is neither a branch nor sub-office, nor subordinate office of the Office of the Administrator of Comunidades, South Zone. The Comunidade of Margao is an autonomous and private entity that is distinct and independent from the Office of the Administrator of Comunidades, South Zone. Hence, Escrivao of Comunidade cannot be considered as a deemed PIO. Also that he was not arraigned as respondent before the FAA.
5. Appellant stated that, Administrator of Comunidades, South Zone as well as Escrivao of Comunidade of Margao are duty bound to furnish the information under the Act. The requested information is required to be available in the office of the PIO since in the case of any allotment of land, the files are required to be sent for approval to the Government, which are processed through the office of the respondent PIO by the Comunidade, as such, the PIO being the Administrator of Comunidade must have the relevant information and the same has to be furnished to the appellant. Appellant further stated that, the FAA was pleased to allow the appeal and had directed the PIO to furnish the entire information.
6. Upon perusal of the records it is seen that the appellant had asked information on 23 points. PIO did not respond to the application within the stipulated period. The inaction of the PIO compelled the appellant to file appeal. The appellate authority, after due hearing held that the requested information should be available with the office of the PIO, hence the PIO is required to furnish the information within 15 days.
7. The Commission notes that, Administrator of Comunidades of South Zone, being the notified PIO under the Act should have the information sought by the appellant since the entire process of

allotment of land of Comunidade is co-ordinated by his office. Also Section 5 (4) of the Act allows the PIO to seek the assistance of any other officer for proper discharge of his duty of furnishing the information. The PIO cannot shirk from the responsibility of furnishing the information and attending the hearing before the Commission, by issuing a memorandum to the Escrivao of Comunidade, directing him to reply before the Commission and report compliance, being the deemed PIO.

8. The Commission observes that information sought is eligible as information as defined under Section 2 (f) of the Act. The said information is neither exempted under Section 8, nor rejected under Section 9 of the Act. The requested information has to be available in the records of the PIO and he is mandated to furnish the same to the appellant.
9. PIO under Section 7 (1) of the Act is bound to respond to the application within the stipulated period of 30 days. PIO must remember that the object of the Act is to ensure maximum disclosure of information and minimum exemption from disclosure. This Act goes to an extent of making a Government officer personally and financially liable for not providing information that has been asked by a member of the public.
10. It is noted that the PIO has not complied with the direction of the FAA. Further, the PIO did not attend the proceeding before the Commission. PIO hereby is reminded that he is required to attend the hearing whenever he receives notice from the Commission. In case one is unable to attend the hearing, prior permission from the Commission has to be taken and authorised representative who is conversant with the matter is required to be sent. The Commission issues stern warning to the PIO to strictly abide by the provisions of the Act, in future.

11. In the light of above discussion, the appeal is disposed with the following order:-

- a) The order of the FAA is upheld.
- b) PIO is directed to furnish information sought by the appellant vide application dated 02/08/2021, within 15 days from the receipt of this order, free of cost.
- c) PIO is directed hereafter to respond to the applications received under Section 6 (1) of the Act within the stipulated period, as provided under Section 7 (1) of the Act.
- d) 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

