

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 142/2020/SIC-I

Smt. Cicilia @ Cecilia Afonso,
H. No. 387, Dando, Goa Velha,
Tiswadi Goa, 403108

....Appellant

V/s

1. Public Information Officer (PIO),
Secretary, Village Panchayat of
Goa Velha, Tiswadi, Goa – 403108

2. First Appellate Authority (FAA),
Block Development Officer,
6th floor, Junta House, Panaji Goa.

..... Respondents

Filed on : 15/09/2020

Decided on : 21/04/2022

Relevant dates emerging from appeal:

RTI application filed on	: 12/11/2019
PIO replied on	: 03/01/2020
First appeal filed on	: 17/12/2019
FAA order passed on	: 12/02/2020
Second appeal received on	: 15/09/2020

ORDER

1. The Second appeal filed by the appellant under section 19(3) of the Right to Information Act, 2005 (for short, the Act) against Respondent No. 1 Public Information Officer (PIO) and Respondent No. 2 First Appellate Authority (FAA) came before the Commission on 15/09/2020.

2. The brief facts of this appeal are as under :-

a) The Appellant vide application dated 12/11/2019 sought information on three points from the PIO. Aggrieved due to non response from the PIO within

the stipulated period, she filed first appeal before the FAA.

b) Pending the appeal proceedings, PIO issued a reply dated 03/01/2020 to the appellant stating the application could not be disposed within 30 days due to oversight. However, complete information was not furnished.

c) The FAA vide order dated 12/02/2020 directed the PIO to go through the records and furnish the information within 15 days. However PIO did not comply with the order and hence the appellant preferred second appeal with prayers such as complete information, penalty on PIO and compensation of Rs. 10,000/- to the appellant.

3. The concerned parties were notified and the matter was taken up for hearing. Pursuant to the notice, representative of FAA appeared and filed reply dated 05/10/2020 on behalf of FAA. Advocate P. Gawandi appeared on 01/04/2021 on behalf of PIO and filed reply. PIO filed additional submissions dated 16/12/2021, 12/01/2022 and 31/03/2022 through Advocate Pronoy Kamat and Advocate Shilpa Kamat. Appellant represented by Advocate Manoj Naik and Advocate Yogeeta M. Naik filed a submission on 12/01/2022 and later argued the matter.

4. The FAA vide reply dated 05/10/2020 stated that, after hearing both the parties, an order has been passed directing the PIO to furnish the information desired by the appellant , free of cost. The FAA further stated that the first appeal has been decided within the stipulated period.

5. PIO stated in his reply that the information sought by the appellant spans over a period of 30 to 40 years and the appellant did not mention the details or relevant references of the information. That the Act does not mandate PIO to furnish the information which is more than 20 years old. Further, PIO stated that the appellant has been provided the inspection of the available records in the Panchayat Office and full cooperation of the staff is provided to her. The PIO has furnished the available information and appellant cannot force PIO to provide any information which is not available, or without the appellant providing relevant details.

6. The appellant stated that the PIO has acted contrary to the provisions of section 7 of the Act and malafidely and deliberately provided incorrect and incomplete information. That the PIO ought to have considered the fact that the appellant is a lady, a senior citizen and residing alone in the old house. She visited PIO's office many times, requesting him to provide the information so as to repair her house at the earliest, which is in dilapidated condition. The Appellant also stated vide a submission dated 12/01/2022 that as per the directions of the Commission, the advocate of the appellant visited PIO's office for inspection, however the PIO was not present. The PIO then furnished by way of registered post the information with respect to point No. 3, and information sought at point No. 1 and 2 is not furnished yet. It is, hence clear that the PIO is not intending to furnish the remaining information.

7. Advocate Pronoy Kamat, appearing for the PIO, argued before this authority that the information sought by the appellant is very old and also vague. Hence the PIO volunteered to provide the inspection. PIO is willing to furnish the information if identified by the appellant.

8. Shri. Oswyn Mascarenhas, PIO and Secretary of Village Panchayat St. Andre (Goa Velha) argued before the Commission that the documents sought by the appellant under point No. 1 and 2 are not in his office. The said documents were sent to the Block Development Officer, Tiswadi Taluka, vide letter dated 19/08/2016.
9. After careful perusal of the submissions and after hearing the arguments of the concerned parties from both the sides, the Commission arrives at conclusion that the information sought under point No. 1 and 2 was available in the records of the PIO's office. PIO also has not stated that the said information was never available. The contention of the PIO that the said information is 30 to 40 years old itself shows his admission of the fact that the information was available.

Secondly, PIO stated that records pertaining to point No. 1 and 2 were sent to the office of the BDO vide letter dated 19/08/2016 and hence the same is not available in his office. The Commission finds this argument very strange and weird, for the reason that any government office maintains the copy of any documents sent from one office to other office which is commonly called as office copy/file copy.

In an another important observation, the Commission finds that if the argument of PIO is to be believed, then he knew that the said information was not available in his office and in such a case was required under section 6(3) of the Act to transfer the application to the office of the BDO within five days for furnishing the information sought by the appellant under point No. 1 and 2, which he did not do.

It is also seen that the PIO initially did not reply to the application of the appellant. The appellant filed the application on 12/11/2019, hence under section 7(1) of the Act the PIO was required to reply the same within 30 days i.e. on or before 11/12/2019. The appellant filed first appeal before the appellate authority on 17/12/2019, the FAA issued notice dated 01/10/2020 scheduling the hearing on 07/01/2020. The PIO, upon receiving the said notice got alerted and sent a reply dated 03/01/2020 to the appellant, wherein he claims that the available information under point No. 1 and 2 has been furnished. However complete information was not furnished.

10. On this background, the Commission directed PIO to seek the said information from the office of FAA/BDO, and PIO agreed to comply. Accordingly he requested the BDO vide letter dated 01/01/2022 to issue certified copies of the documents submitted by his office to the office of BDO. Subsequently PIO received the said documents vide letter dated 21/03/2022 and furnished the same vide letter dated 28/03/2022 to the appellant. The appellant, during the hearing on 31/03/2022 acknowledged before the Commission, receipt of the said information.

11. Hence, the Commission concludes that the information sought by the appellant vide application dated 12/11/2019 is finally furnished by the PIO. Therefore the prayer for information becomes infructuous. The Commission does not contemplate penal action under section 20 of the Act against him. Since the information has been furnished the appeal needs to be decided accordingly.

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

- a) As the prayer for information becomes infructuous, no more intervention of the Commission is required in the matter.
- b) PIO is directed to entertain and decide applications received under section 6 (1) of the Act strictly as per the provisions of the Act.
- c) All other prayer are rejected.

Proceedings 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