

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Appeal No. 144/2021/SIC**

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

-----Appellant

**v/s**

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

-----Respondent

Filed on: 29/04/2021  
Decided on: 18/08/2022

**Relevant dates emerging from appeal:**

RTI application filed on	: 29/10/2020
PIO replied on	: 19/11/2020
First appeal filed on	: 07/12/2020
First Appellate authority order passed on	: 17/02/2021
Second appeal received on	: 29/04/2021

**ORDER**

1. The brief facts of this second appeal are that, the appellant, under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), vide application dated 29/10/2020 had sought information on 07 points from the Respondent Public Information Officer (PIO), Administrator of Comunidades, South Zone, Margao-Goa. Aggrieved by the reply of the PIO, he filed appeal dated 07/12/2020 before the First Appellate Authority (FAA), Additional Collector-I, South Goa District, Margao-Goa which was disposed vide order dated 17/02/2021. Being aggrieved by non compliance of the said order, appellant approached the Commission by way of second appeal.
2. Notice was issued to the concerned parties, pursuant to which appellant appeared alongwith Advocate Neha Mayenkar and filed written arguments on 14/12/2021. PIO filed reply dated 27/09/2021 through his authorized representative.
3. Appellant stated that, the Comunidades are public bodies functioning under the Government in the State of Goa, hence they fall under the purview of public authority and Administrator of Comunidades is authorized to call for the records from the Comunidades, as such, cannot refuse the information under the

Act. PIO had furnished only part information and the FAA had directed the PIO to furnish the remaining information, yet the directions were not complied by the PIO.

4. PIO stated that, information sought by the appellant vide application dated 29/10/2020, as regards point nos. 1 to 7 was furnished vide letter dated 19/11/2020, and that the available information has been furnished.
5. Advocate Neha Mayenkar while arguing on behalf of the appellant stated that, the Administrator /PIO represents the public authority, similarly, FAA had directed the PIO to furnish the remaining information, yet the information is not furnished. Advocate Mayenkar further argued that, if the part of information is not available then the PIO should indicate the reason as to why the same is not available and take necessary action, which PIO has failed to do.
6. Upon perusal of the submissions and records, it is seen that the information was sought on 07 points, however, the PIO furnished part information and stated that the remaining information is not available. FAA, while disposing the first appeal directed PIO to provide the information on point nos. 1, 2, 3, 4 and 7 and if the information is not available then state the reason why the same is not available. PIO vide reply dated 27/09/2021 filed before the Commission stated that he has furnished the information vide reply dated 19/11/2020. However, the Commission hold that the same is not true, entire information is not furnished and the PIO has not stated any reason for not providing the information on the above mentioned points.
7. The appellant contends that the Office of the Administrator of Comunidades is a public authority under the Act and he is authorized to call for the records from the subordinate staff including Escrivao/Attorney/Clerk of the concerned Comunidades and as such cannot refuse the information.
8. The Commission, in the past has heard appeals under Section 19 (3) and complaints under Section 18 of the Act against the PIO / Administrator of Comunidades as respondent, wherein, it is seen that the Comunidades consider themselves as private body outside the purview of the Act and the Escrivao/Attorney/Clerk of the Comunidades do not co-operate with the Administrator of Comunidades and in some cases do not comply Administrator's directions for furnishing the information related to their functioning, sought under the Act.

9. The Comunidades are regulated through the Code of Comunidades formulated and amended from time to time by the State Government. The Administrator of Comunidades is appointed by the Government, as provided in the said Code. Similarly, duties of Escrivao/Attorney/Clerk of Comunidades are defined under the Code. Thus, it appears that the Comunidade body falls under the purview of public authority under Section 2 (h) of the Act. However, as a matter of fact, Comunidade bodies have not been declared as public authority by the appropriate Government and as such they are reluctant to share the information with the PIO/ Administrator of Comunidades. Yet, referring to the present matter, Comunidade of Davorlim comes under the administrative control of the PIO/Administrator of Comunidades, South Zone and the PIO is authorised to collect the said information from the Comunidade of Davorlim. In such a situation, the Commission holds that PIO/ Administrator of Comunidades is required to furnish the information as available in his office records and in addition to that, should collect the information from the Escrivao/Attorney/Clerk of the Comunidades and furnish the same to the appellant.
10. In the present matter, it is seen that, the appellant is not provided the complete information sought vide application dated 29/10/2020, he is provided information only on point no. 5 and 6. Information furnished on point no. 1 and 2 appears to be incomplete and no information is furnished on point no. 3, 4 and 7. The PIO has not transferred the application under Section 6 (3) of the Act to any other authority. Hence, the complete information has to be furnished by him to the appellant.
11. It is also noted that the FAA had directed the PIO to indicate reason if any information is not available and take required action as per the facts involved in the matter. However, the PIO has neither indicated reason for non availability of information, nor taken any action required under the law.
12. PIO was given sufficient opportunity to appear before the Commission and file reply explaining reasons for not furnishing the complete information. Notice dated 08/07/2021 and 22/02/2022 was issued to the PIO. In spite of the delivery of the notice, PIO did not appear, nor filed any reply explaining the reason for non furnishing of the information.
13. In the background of the facts and findings of the Commission as mentioned above, the Commission concludes that the PIO has failed to comply with the provisions under Section 7 (1) of the Act. Such, a

conduct is deplorable and the same should not go unpunished. Thus, the PIO is held guilty for contravention of Section 7 (1) of the Act, for not adhering to the directions of the FAA and the Commission. Hence, penal action under Section 20 of the Act is required to be initiated against the guilty PIO.

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

- a. The present PIO is directed to furnish the information on point no.1, 2, 3, 4 and 7, sought by the appellant vide application dated 29/10/2020, within 20 days from the receipt of this order, free of cost.
- b. Issue show cause notice to the then PIO, Administrator of Comunidades, South Zone, Margao-Goa and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) of the Act should not be imposed against him.
- c. In case the PIO at the relevant time, is transferred, the present PIO shall serve the notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date fixed in the matter, alongwith name and the present address of the PIO.
- d. PIO is hereby directed to remain present on **29/09/2022 at 10.30. a.m.** alongwith reply to the showcase notice.
- e. The Registry is directed to initiate penalty proceeding against the PIO.

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

