

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 150/2021/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	: 22/10/2020
PIO replied on	: 27/11/2020
First appeal filed on	: 07/12/2020
First Appellate authority order passed on	: 26/02/2021
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 22/10/2020 had sought information on 06 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 26/02/2021. 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 argument 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 22/10/2020, as regards point nos. 1 to 6 was furnished vide letter dated 27/11/2020, 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 6 points, however, the PIO furnished information only on point no. 6 and stated that the remaining information is not available. FAA, while disposing the first appeal, held that the relevant information should be available in the office of the PIO and if not, then the PIO was required to transfer the application under Section 6 (3) of the Act to the concerned authority, and directed the PIO to furnish information on point nos. 1, 2, 3, 4 and 5. However, PIO vide reply dated 27/09/2021 filed before the Commission stated that he has furnished the information vide reply dated 27/11/2020. However, the Commission holds that the same is not true, entire information is not furnished and the PIO is required to furnish the remaining information.
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 22/10/2020. He is provided information only on point no. 6 and information on point no. 1, 2, 3, 4 and 5 is not furnished. PIO, being the Administrator of Comunidades of South Zone, is authorised to collect the information from the concerned Comunidade, if the same is not available in his records.
11. However, the Commission holds that the information requested by the appellant is in the public domain, neither exempted under Section 8 of the Act nor rejected under Section 9 of the Act. The said information is public document and has to be available in the records of the PIO or in the office of the Comunidade of Davorlim. The Comunidade of Davorlim comes under the administrative control of the PIO/Administrator of Comunidades, South Zone, Margao and the PIO is authorised to collect the said information from the Comunidade of Davorlim.

12. In the background of the facts and findings of the Commission as mentioned above, the present appeal is disposed with the following order:-

- a. The present PIO is directed to furnish the information sought by the appellant vide application dated 22/10/2020, within 20 days from the receipt of this order, free of cost.
- b. PIO is directed, hereafter, to respond to the application received under Section 6 (1) of the Act, within the stipulated period, as provided by the law.
- c. 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