

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 160/2022/SIC

Mr. Leslie Steven De Souza,
H.No. E/8, 158,
Opposite the Court,
Altinho, Mapusa, Bardez- Goa 403507.

-----Appellant

v/s

1. The Public Information Officer,
Mapusa Municipal Council,
Mapusa-Goa 403507.

2. The First Appellate Authority,
The Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa 403507.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 11/04/2022, 18/04/2022
PIO replied on	: Nil
First appeal filed on	: 02/05/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 14/06/2022
Decided on	: 29/12/2022

ORDER

1. The brief facts of this appeal, as contended by the appellant are that vide application dated 11/04/2022 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). Later, vide application dated 18/04/2022 he requested PIO to furnish part information within 48 hours. Upon not receiving any reply, he filed appeal before Respondent No. 2, First Appellate Authority (FAA). It is the contention of the appellant that the appeal was not heard by the FAA, hence he preferred second appeal before the Commission.

2. Notice was issued to the concerned parties and the matter was taken up for hearing. Pursuant to the notice appellant appeared in person. Shri. Prashant Narvekar, PIO, Technical Section appeared and filed reply on 12/07/2022. PIO filed additional reply on 09/09/2022 and

reply on affidavit on 08/11/2022. FAA was represented by his authorised representative. Appellant filed submissions on 27/07/2022 and 24/08/2022. Another submission from the appellant was received in the registry on 14/12/2022.

3. Appellant stated that, his application dated 11/04/2022 and revised application dated 18/04/2022 was not entertained, no information was furnished by the PIO. Later, during the proceeding of the present matter, PIO, though provided part information, has not furnished complete information. Also, that, he had sought para-wise information and the information which is furnished is not para-wise.
4. PIO submitted that, after receipt of the application from the appellant, he had sought help from the dealing hand. Subsequently he was on leave from 24/04/2022 to 07/05/2022. Later, on 05/07/2022 he once again issued memorandum to the concerned dealing hand and information received from the dealing hand was furnished to the appellant.
5. The Commission has perused the replies and submissions of both the sides. Upon careful perusal, it is seen that, though the PIO had not furnished any information initially, later, during the proceeding of the second appeal has furnished part information. However, the appellant rightfully was pressing for the remaining information. This being the case, the Commission directed PIO to provide for inspection of the records and the appellant agreed to visit PIO's office for inspection.
6. Inspection was carried out on 09/08/2022, wherein some files/ documents were made available for inspection. However, documents pertaining to construction license no. 09/2003, as sought by the appellant were not provided and inspection of the said documents could not be carried out by the appellant.

7. Later, PIO vide affidavit filed before the Commission on 08/11/2022 stated that, he had furnished the available information to the appellant on 12/07/2022. Further, the appellant was given opportunity to inspect the records maintained by his office. All the available information, documents are furnished to the appellant and that, no other information on the same subject matter is available in the office records of Technical section of the authority.
8. It appears that part information which is available in the records of the PIO has been furnished to the appellant, and information pertaining to construction license no. 09/2003 is not furnished since the file is not available in the records. The Commission finds that the PIO has stated on affidavit, filed on 08/11/2022 that he has furnished available information and no other information on the same subject matter is available in his office.
9. Hence, the Commission holds that the PIO has furnished available information during the proceeding of the present appeal and the remaining information pertaining to construction license no. 09/2003, as sought by the appellant, is presently not available in the records of the PIO. However, needless to say that, in case at any stage or at any time the statements in the said affidavit filed by the PIO are found false, the person swearing the same would be liable for action for perjury.
10. The Commission notes that the appellant has not followed the period of limitation as provided in the Act. He had filed his application on 11/04/2022. Section 7 (1) provides PIO period of 30 days to respond to the application. Appellant, without waiting for the completion of the stipulated period of 30 days, on 02/05/2022 filed first appeal before FAA. Further, Section 19 (6) provides FAA 30 days from the date of filing, to decide the appeal, and maximum of 45 days, to decide with reasons recorded in writing. Appellant, in the present matter approached the Commission by way of second appeal, before the expiry of 45 days.

Ironically, whatever information furnished by the PIO was during the proceeding before the Commission, and not within the stipulated period. Also, FAA failed to hear the appeal within 30 days and no explanation for this failure was filed by the FAA. Hence, PIO and FAA in the instant matter are reprimanded for their failure to comply with the provisions of the Act. Any violation under the Act in future by PIO and FAA will be viewed seriously.

11. Appellant, vide submission dated 14/12/2022 has raised doubts on the contention of the PIO regarding missing of the documents pertaining to construction license no. 09/2003. Though the PIO has stated on affidavit that no other information on the same subject matter is available in the office records, it is a fact that the said documents requested by the appellant were existing at one point of the time in the office, and now, as per the affidavit filed by the PIO, no more documents pertaining to the subject matter are available. Thus, the concerned authority is required to enquire into the issue of the relevant information pertaining to construction licence no. 09/2003 sought by the appellant vide application dated 11/04/2022, being not available in the records of the PIO.
12. In the light of above discussion, the Commission concludes that, the available information, though late, has been furnished by the PIO. Remaining information pertaining to construction licence no. 09/2003, though not available presently, the Commission shall direct the concerned authority to institute an enquiry into the issue of the said documents being not available.
13. Thus, the present appeal is disposed with the following order:-
 - a) PIO is directed to undertake rigorous search, trace and furnish the remaining information pertaining to construction licence no. 09/2003, dated 14/05/2003, as sought by the appellant vide

application dated 11/04/2022, within 20 days from the receipt of this order, free of cost.

- b) In case the said information is not found within 20 days, then the FAA, Chief Officer of Mapusa Municipal Council is directed to undertake appropriate enquiry into the issue of documents pertaining to construction licence no. 09/2003, dated 14/05/2003, being not traceable in the records of the PIO. The Chief Officer shall complete the enquiry and fix the responsibility and submit the findings to the Commission within four months from the receipt of this order.

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

