

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 214/2021/SIC

Smt. Sneha D. Korgaonkar,
C/o. Wath 17 P. & T. Colony,
Pratap Nagar, Nagpur
Maharashtra 440022

-----Appellant

v/s

1. The Public Information Officer,
Office of the Dy. Collector,
Addl. Charge of (DRO),
Incharge of Flying Squad,
Margao-Goa.

2. The First Appellate Authority,
Dy. Collector, Margao-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 03/03/2021
PIO replied on	: 19/03/2021
First appeal filed on	: 03/05/2021
First Appellate authority order passed on	: 10/06/2021
Second appeal received on	: 27/08/2021
Decided on	: 25/08/2022

ORDER

1. The appellant vide application dated 03/03/2021 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). Not satisfied with the reply of the PIO, she filed appeal before Respondent No. 2, First Appellate Authority (FAA). The appeal was disposed vide order dated 10/06/2021. Being aggrieved, the appellant filed second appeal before the Commission.
2. Notice was issued to the concerned parties and the matter was taken up for hearing. Appellant vide submission received on 08/10/2021 conveyed her inability to attend the proceeding in person since she lives in Nagpur, Maharashtra, however filed submissions dated 07/01/2022, 20/01/2022, 24/01/2022 and 21/03/2021. PIO, represented by Smt. Roshell Fernandes, APIO. Advocate A. Kulkarni, Advocate S. Dodamani and Adovcate P. Mirjankar filed reply on 06/01/2022 and submission on 02/08/2022.

3. Appellant stated that, she had requested for certified copy of the final report in case no. 100/DYC-LA/INQ/1/2017, however, PIO did not furnish the information. Later, FAA while disposing the appeal held that the said final report is not available in the file of PIO since the same is not submitted to the office of PIO. Appellant further stated that, the said final report has to be available in the records of the PIO and requested the Commission to direct the PIO to furnish the information.
4. PIO submitted that, the appellant was requested to visit the office and inspect the records, however appellant did not visit his office. The said final report is not yet submitted by the higher authorities, hence the information which is not available in the file cannot be furnished. PIO further stated that, as per the established principle whatever is in the file is to be submitted and the information cannot be created, hence he is unable to furnish the information.
5. Upon perusal of the records, it is seen that the appellant had requested for certified copy of the final report in case no. 100/DYC-LA/INQ/1/2017. The records available indicate that the said report was not existing with the PIO at the time of the application and also till the first appeal was decided. Therefore, PIO was not in a position to furnish the information as it was not existing in his records. However, during the proceedings of the second appeal the PIO had undertaken to furnish the final report as soon as the same is received in the office. He had not denied the information, rather was waiting for the receipt of the same from higher authorities to enable him to furnish the same to the appellant.
6. During the hearing on 02/08/2022, Advocate P. Mirjankar representing the PIO stated that, the final report has been furnished to the office of the Collector, South Goa, and the PIO is now in a position to furnish the same to the appellant and that, he shall abide by the direction of the Commission.
7. In the background of the above mentioned facts, the Commission finds that, the information sought by the appellant was not available with the PIO initially, at the time of receipt of the application and also during the proceeding of first appeal. Therefore, PIO cannot be held guilty for not furnishing the information within the stipulated period. Similarly, FAA's order cannot be faulted since the requested information was not available till the first appeal was decided. Nevertheless, now that the final report in case no. 100/DYC-

LA/INQ/1/2017 sought by the appellant is available, the PIO is required to furnish the same to the appellant.

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

- a. PIO is directed to furnish the information, i.e. certified copy of the final report in case no. 100/DYC-LA/INQ/1/2017 sought by the appellant vide application dated 03/03/2021, within 07 days from the receipt of this order, free of cost by Registered A.D. Post.
- b. PIO is directed to submit copy of the acknowledgment (A.D.) before the Commission, once the same is received by him.
- 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

