

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 303/2021/SIC

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

-----Appellant

v/s

The Public Information Officer,
Village Panchayat of Davorlim-Dicarpale,
PO Navelim,
Salcete-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 03/02/2021
PIO replied on	: 24/02/2021
First appeal filed on	: 12/03/2021
First Appellate Authority order passed on	: 15/06/2021
Second appeal received on	: 23/12/2021
Decided on	: 19/09/2022

ORDER

1. Aggrieved by non furnishing of complete information and non compliance of the order of the First Appellate Authority (FAA), appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed second appeal before the Commission against the Public Information Officer (PIO).
2. It is the contention of the appellant that the PIO failed to furnish complete information to him, hence he filed appeal before the FAA, which was disposed by the FAA with direction to PIO to provide for inspection of the records and furnish the information within 15 days. However, he was not provided the opportunity to inspect the relevant files.
3. Notice was issued to the concerned parties, pursuant to which appellant appeared and filed rejoinder on 06/04/2022, submission dated 13/06/2022 and reply dated 23/08/2022. Shri. Uday B. Fal Desai, the then PIO, Shri. Prabhakar Kamati, former PIO and Shri. Mario J. J. Viegas, the present PIO appeared in person.

Shri. Uday Fal Desai filed reply dated 16/03/2022, Shri. Mario Viegas filed reply on 29/06/2022.

4. Shri. Uday Fal Desai, the then PIO stated that, he had kept the information ready and the appellant was informed within the stipulated period, however appellant failed to collect the information. Later, he was transferred on 04/03/2021, before passing of the order in first appeal. Therefore, he is not liable to furnish any information to the appellant.
5. Shri. Mario Viegas, the present PIO submitted that, as per the direction of the Commission, all files were made available to the appellant for inspection on 13/05/2022. The appellant attended and verified the records, yet had not sought any further information.
6. Appellant stated that, after the disposal of the first appeal he visited PIO's office on number of occasion, however he was not provided the inspection of relevant files, as directed by the FAA. Later, as per the direction of the Commission, he visited PIO's office on 13/05/2022, he was orally told that the information is not available and was not provided the relevant files for inspection.
7. Upon perusal of the records and submissions the Commission notes that Shri. Uday Fal Desai, the then PIO had issued a reply dated 24/02/2021 to the appellant and the available information was kept ready. However, the appellant instead of collecting the same filed first appeal. Further, FAA directed the PIO to provide for inspection of the relevant files. Shri. Prabhakar Kamati, who was the PIO on the day of the order of the FAA was required to comply with the order of the FAA by providing for inspection.
8. It appears that appellant was not provided for inspection inspite of his visits to the office of the PIO. Shri. Prabhakar Kamati, former PIO failed to provide relevant files for inspection to the appellant as directed by the FAA. Later, Shri. Prabhakar Kamati was transferred

and Shri. Mario Viegas took over as PIO. The Commission, on 27/04/2022 directed the PIO to give another opportunity to the appellant to inspect the relevant records. Accordingly, inspection was provided on 13/05/2022, however, appellant contended that no files were shown to him for inspection. On this background the onus was on Shri. Prabhakar Kamati, former PIO and Shri. Mario Viegas, the present PIO to bring on record that the relevant files were provided for inspection and the identified information has been furnished to the appellant.

9. Shri. Prabhakar Kamati, former PIO appeared before the Commission for hearing, yet filed no reply to defend his action. Shri. Mario Viegas filed a reply on 29/06/2022, claiming that the appellant did not seek any further information after inspecting the files. However, Shri. Mario Viegas has not provided acknowledgement from the appellant, on the contrary, has relied on the reply dated 24/02/2021, issued by Shri. Uday Fal Desai, the then PIO.
10. With these observations mentioned above, the Commission concludes that Shri. Prabhakar Kamati, PIO at the time when FAA had passed the order and Shri. Mario Viegas, the present PIO have failed to comply with the direction of the FAA. Both these officers have failed to prove on record that the relevant files were provided for inspection to the appellant. This being the case the present PIO is required to provide appellant the inspection of the relevant file and furnish the information identified by the appellant during the inspection.
11. In the light of above discussion the present appeal is disposed with the following order:-
 - a) Appellant, if desires, may undertake inspection of the relevant files pertaining to the information sought vide application dated 03/02/2021, with prior intimation to the PIO, within 10 days from the receipt of this order.

- b) PIO is directed to provide for the inspection as mentioned in para (a) above and furnish the identified information within 07 days from the last day of the inspection.
- c) Director of Panchayats, Government of Goa shall issue a memorandum to Shri. Prabhakar Kamati, former PIO and Shri. Mario Viegas, the present PIO asking them to uphold the spirit of the Act and deal with RTI applications strictly in accordance with law.
- d) The Registry is directed to send a copy of this order to the Director of Panchayats, Government of Goa for information and necessary action.
- e) All others 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

