

**GOA STATE INFORMATION COMMISSION**

"Kamat Towers" 7<sup>th</sup> Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.scic.goa.gov.in](http://www.scic.goa.gov.in)

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

**Appeal No. 76/2022/SIC**

Sushant P. Nagvenkar ,  
H.No. C-312, Fondvem,  
Ribandar-Goa

-----Appellant

**v/s**

1. The Public Information Officer,  
Office of the Commissioner of Excise,  
Altinho, Panaji-Goa.

2. The First Appellate Authority,  
Office of the Commissioner of Excise,  
Altinho, Panaji-Goa.

-----Respondents

Filed on:-09/03/2022

Decided on: 29/07/2022

**Relevant dates emerging from appeal:**

RTI application filed on	: 08/12/2021
PIO replied on	: 17/12/2021
First appeal filed on	: 18/01/2022
First Appellate authority order passed on	: Nil
Second appeal received on	: 09/03/2022

**ORDER**

1. The brief facts of this appeal as contended by the appellant are that vide application dated 08/12/2021 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') he sought certain information from Respondent No.1, Public Information Officer (PIO). Upon not receiving any reply from the PIO within the stipulated period, appellant filed appeal dated 18/01/2022 before Respondent No. 2, First Appellate Authority (FAA). Aggrieved with the failure of the FAA to pass any order within the mandatory period, appellant appeared before the Commission by way of second appeal.

2. Notice was issued to the concerned parties, pursuant to which appellant appeared in person and filed application cum counter dated 16/06/2022 to the reply of the PIO. The PIO remained present on 11/04/2022 and filed reply on the same day and later submission alongwith enclosures was received from PIO on 12/04/2022.
3. It is the contention of the appellant that he did not receive any reply from the PIO within the stipulated period, hence the inaction of the PIO amounts to refusal of the information without reasonable cause. Appellant further stated that the PIO despite assurance has not produced the file process in respect of grant of letter reference EIN No. 301135110857 dated 10/11/2021, which has been electronically processed in the system and available in soft form. The said act of the PIO smacks of intentional and deliberate mischief.
4. PIO stated that the said application was replied vide letter dated 17/12/2021, within the stipulated period, wherein the appellant was requested to visit head office for inspection of relevant records. However, appellant did not turn up and filed first appeal. Again, notice dated 25/01/2022 was issued by the FAA for hearing on 04/02/2022 but the appellant did not attend the hearing and later filed second appeal. The said action of the appellant shows disrespect to the authority.
5. Upon perusal of the records of this appeal, it is seen that the appellant vide application dated 08/12/2021 had sought inspection and specific information pertaining to a topic mentioned in the application. Though the appellant contends that he did not receive any reply, PIO has produced on record copy of reply dated 17/12/2021 requesting the appellant to visit head office to inspect the document. However, PIO was required to produce the proof of dispatch and /or proof of receipt by the appellant, in view of the contention of the appellant, which the PIO has failed to produce.

6. Similarly, PIO has produced copy of the notice dated 25/01/2022 issued by the FAA for hearing of first appeal on 04/02/2022 at 11.00 a.m. in the chamber of Commissioner of Excise. The copy of the notice is not enclosed with the proof of dispatch and /or proof of receipt by the appellant, in view of the contention of the appellant that he has not received the said notice.
7. Further, it is noted from the reply of the PIO that the next hearing of the first appeal was fixed on 18/02/2022, however the appellant never bothered to enquire with the authority regarding the hearing of the first appeal.
8. Here, with reference to Para 6 and Para 7 above, the Commission observes that the FAA being the Appellate Authority cannot be represented by the PIO. Similarly, as provided under Section 19 (6) of the Act, FAA is required to hear and dispose the appeal within the maximum period of 45 days. Contrary to this provision, FAA did not decide the appeal within 45 days, which compelled the appellant to file second appeal before the Commission. Also Section 19 (5) gives an opportunity to the PIO to prove that a denial of a request was justified. Non disposal of the first appeal by the FAA denied the opportunity to the PIO, to justify his action.
9. In the background of the observations mentioned above, the Commission finds that the information requested is in public domain, neither exempted under Section 8, nor rejected under Section 9 of the Act, hence the PIO is required to furnish the same. Hence, the PIO is guilty of not furnishing the requested information to the appellant. However, the Commission holds that Section 20 of the Act for penal action need not be invoked against the PIO since he did not get an opportunity to justify his action before the FAA. Nevertheless, the PIO is bound by the Act to furnish the information to the appellant.

Similarly, the FAA is guilty of not deciding the first appeal within the mandatory period. However, the Act does not provide for any action against the FAA. This being so, the Commission issues strict warning to the FAA to hear and decide hereafter, the first appeal, within the mandatory period.

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

**a)** PIO is directed to provide for inspection and furnish the information sought by the appellant vide application dated 08/12/2021, within 20 days from the receipt of this order, free of cost.

**b)** 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