

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 86/2022/SIC

Shri. Deepak Gracias,
R/o. Karishma Apartments,
'C' Block Near Cine Vishant,
Aquem, Margao-Goa. 403601

-----Appellant

v/s

1. The First Appellate Authority,
The Director of Municipal Administration,
Dempo Tower, 1st Floor, Patto,
Panaji-Goa 403001.

2. The Public Information Officer,
The Director of Municipal Administration,
Dempo Tower, 1st Floor, Patto,
Panaji-Goa 403001.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 09/11/2021
PIO replied on	: Nil
First appeal filed on	: 17/12/2021
First Appellate authority order passed on	: 03/01/2022
Second appeal received on	: 14/03/2022
Decided on	: 12/09/2022

ORDER

1. Appellant vide application dated 09/11/2021 filed under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought certain information pertaining to the complaint dated 23/09/2021 filed by him against Director of Urban Development before the Additional Director of Urban Development. Upon not receiving any reply within the stipulated period from Respondent No. 2, Public Information Officer (PIO), he preferred appeal dated 17/12/2021 before the Respondent No.1, First Appellate Authority (FAA). Being aggrieved by non furnishing of information, appellant filed second appeal before the Commission against the PIO and the FAA.
2. Notice was issued to the concerned parties, pursuant to which appellant appeared in person, PIO was represented by his authorized

representative Ms. Firdous Saba Bepari. Reply on affidavit on behalf of PIO and FAA was received in the registry on 19/05/2022. Compliance report alongwith enclosures on behalf of PIO was filed in the registry on 12/07/2022. Appellant filed written submission on 22/07/2022.

3. PIO stated that, upon receiving the application his office sent a letter dated 07/12/2021 informing the appellant that the complaint referred by him in the application is against the undersigned itself and therefore the undersigned cannot be the inquiry authority in the said matter that the contention of the appellant is false and therefore should be put to strict proof thereof.
4. FAA submitted that, he heard the first appeal and decided within the time frame provided under the Act and pronounced in the Open Court on 03/01/2022 directing the appellant to inspect the entire file and seek information. Appellant is falsely alleging that the respondent have failed to provide the information.
5. Appellant stated that, the PIO has failed to provide the requested document and the FAA has failed to take action against the PIO. Appellant further contended that the respondents intentionally has denied / delayed the requested documents, rather they should have handed over the information to the appellant within specified time limit. Respondents have acted in arbitrary manner, hence he insists on imposing penalty on them.
6. Upon careful perusal of the records it is seen that, the appellant has sought information pertaining to his complaint dated 23/09/2021 against Director of Urban Development who himself is respondent no.1, FAA in the present matter. The said application was not replied by the PIO and Shri. Gurudas P. Pilarnekar, Director of Urban Development who is the designated FAA of the said authority vide letter dated 07/12/2021 informed the appellant that the said

complaint is made against the him itself and therefore he cannot be the inquiry authority in the said matter and that the appellant may approach the appropriate authority for seeking the desired information. As provided under Section 7 (1) of the Act, PIO was required to reply to the appellant and not the Director /FAA. Further, FAA disposed the first appeal vide order dated 03/01/2022 and provided for inspection of the entire file to the appellant. However, there is no evidence on record to show that the inspection was carried out by the appellant.

7. Further, appellant approached the Commission praying for the information and penal action against the respondents. It is noted that during the proceeding of the present matter PIO filed compliance report on 12/07/2022, wherein, it appears that he has furnished the available information.
8. The Commission finds that, the complaint dated 23/09/2021 referred by the appellant is against the Director of Urban Development and later the said matter was put before the Secretary of Urban Development by the appellant .The appellant vide application dated 02/03/2022 had sought similar information from the PIO, Secretary of Urban Development and the P. A. to the Secretary of Urban Development had issued a reply dated 16/03/2022 to the Director of Urban Development with a copy marked to the appellant. Nevertheless, the merit of the said reply is not taken into consideration here, since the Secretary, Urban Development / P. A. to the Secretary of Urban Development is not a party in the present appeal.
9. Hence the Commission concludes that the PIO though did not issue any reply to the appellant within the stipulated period, later during the present proceeding has furnished the available information. Also, it was the responsibility of the appellant to comply with the direction of the FAA by undertaking the inspection of records in the PIO's

office. Similarly the subject matter of the application i.e. complaint dated 23/09/2021 is before the Secretary of Urban Development and not before the Department of Urban Development. Therefore, the Commission accepts the contention of the PIO that he has furnished the information as is available. This being the case, the Commission cannot grant any relief to the appellant.

10. However, in order to bring maximum transparency and accountability in the administration, which is the main aim of the Act, the Commission is of the view that the appellant may be given one more opportunity to inspect the records of the PIO and identify relevant documents, if any.

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

- a. Appellant, if desires, may undertake inspection with prior intimation to PIO and identify the documents pertaining to his application dated 09/11/2021, within 12 days from the receipt of this order.
- b. PIO is directed to provide for inspection as mentioned in para (a) above, and furnish the identified information within 07 days from the last day of inspection.
- 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