

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. 92/2022/SIC

Shri. Jawaharlal T Shetye,
H.N. 35/A Ward No. 11,
Khorlim, Mapusa - Goa 403507.

-----Appellant

v/s

1. The Public Information Officer,
Office of the Mamlatdar of Bardez,
Mapusa-Goa.

2. The First Appellate Authority,
Mamlatdar of Bardez,
Mapusa-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 15/12/2021
PIO replied on	: Nil
First appeal filed on	: 25/01/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 17/03/2022
Decided on	: 19/09/2022

ORDER

1. The appellant vide application dated 15/12/2021 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). Upon not receiving any reply within the stipulated period, he filed appeal before Respondent No.2, First Appellate Authority (FAA). Being aggrieved by non furnishing of the information and non hearing of the first appeal, appellant preferred second appeal before the Commission.
2. Notice was issued to the concerned parties and the matter was taken up for hearing. Appellant appeared on 19/04/2022 praying for the information. Later, on 05/05/2022 PIO appeared and filed reply on 09/06/2022.
3. PIO stated that, the information sought cannot be furnished to the appellant since the matter is currently under investigation. PIO further submitted that Section 8 (1) (h) of the Act exempts disclosure of information which would impede the process of investigation or apprehension or prosecution of offenders, hence PIO is unable to furnish the information.

4. Upon perusal of records, it is seen that the appellant had requested for inspection of the file of 'Test Identification Parade' held before the Executive Magistrate and Mamlatdar of Bardez. The said application was not replied by the PIO and later, the first appeal was not heard by the FAA within the mandatory period. The information requested pertains to the report of test identification of an accused and the contention of the PIO is that disclosure of the said information shall impede the investigation.

5. Section 8 (1) (h) of the Act states:-

8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

h) information which would impede the process of investigation or apprehension or prosecution of offenders.

The above mentioned provision makes it clear that the information which is likely to impede the process of investigation is eligible for exemption from disclosure under the Act.

6. Thus, the Commission holds that the information requested by the appellant is exempted under Section 8 (1) (h) of the Act from disclosure, hence PIO is not required to furnish the same. However, under Section 7 (1) of the Act, PIO was mandated to issue a reply to the application within the stipulated period of 30 days. Similarly, under Section 19 (6) FAA was required to dispose the first appeal within maximum of 45 days. The PIO has failed to honour Section 7 (1) and the FAA has not acted in consonance with Section 19 (6) of the Act, hence both these officer needs to be censured.

7. This being the case, the PIO is directed hereafter to respond to the applications received under Section 6 (1) of the Act, within the stipulated period of 30 days and the FAA is directed to dispose first appeals received under Section 19 (1) of the Act, as provided by the law.

8. With these directions to the PIO and the FAA the present appeal is disposed as dismissed and the 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