

GOA STATE INFORMATION COMMISSION

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

Tel: 0832 2437208, 2437908 E-mail: spio-gsic.goa@nic.in Website: www.gsic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 108/2021/SIC

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

..... Appellant

v/s

1. The Public Information Officer (PIO),
A.C.A.O. Mr. Bhanudas Naik,
Mapusa Municipal Council,
Mapusa-Goa, 4035072

2. The First Appellate Authority (FAA),
The Chief Officer, Clen Madeira,
Mapusa Municipal Council,
Mapusa-Goa, 403507

..... Respondents

Filed on: 12/05/2021

Decided on: 29/04/2022

Relevant dates emerging from appeal:

RTI application filed on	: 08/01/2021
PIO replied on	: Nil
First appeal filed on	: 10/02/2021
FAA order passed on	: 30/03/2021
Second appeal received on	: 12/05/2021

ORDER

1. The brief facts of this appeal are that, the appellant vide application dated 08/01/2021 sought certain information from Respondent No. 1 Public Information Officer (PIO). Upon not receiving any response, he filed appeal dated 10/02/2021 before Respondent No. 2 First Appellate Authority (FAA), which was disposed on 30/03/2021 with directions to the PIO to furnish the information within 20 days. PIO vide letter dated 12/04/2021 furnished some information. Being aggrieved by non furnishing of the complete information, appellant preferred second appeal before the Commission.
2. Pursuant to the notice, appellant appeared in person and prayed for the information as well penal action against the PIO,

Shri. Bhanudas Naik, the then PIO, never presented himself before the Commission, however Smt. Smita Fal Desai, PIO appeared on 02/11/2021 and filed reply on the same day.

3. PIO Smt. Smita Fal Desai stated that, as per the direction of the FAA, information was furnished to the appellant vide letter dated 12/04/2021 by Shri. Bhanudas Naik, the then PIO.
4. Appellant stated that the PIO deliberately and intentionally has furnished misleading information by informing that the same is not available. With this the appellant insisted on getting the complete information.
5. Upon perusal of the appeal memo and reply of respondent PIO, it appears that though the then PIO did not respond to the application within the stipulated period, later, as per the direction of the FAA, he furnished information on point No. 2, 3 and 4. It was stated that information on point No. 1 and 2 is not available. The information sought by the appellant under point No. 1 and 2 is not exempted under section 8 and/or 9. Hence the said information is required to be in the custody of the PIO and he is mandated by the law to furnish the same to the appellant.
6. It is observed that the then PIO has not cited any reasons, nor has made any efforts to trace the said information in order to furnish the same to the appellant. Hence the then PIO is guilty of not furnishing the complete information and similarly guilty of not complying with the order of the FAA. Such an action is punishable under section 20(1) and 20 (2) of the Act. In case of default, a penalty which is levied in terms of money, being personal in nature, is recoverable from the salary payable to such employee, during his/her service.
7. However, it is seen from the records that Shri. Bhanudas Naik, the then PIO has retired from the service on superannuation and section 11 of the Pension Act, 1871, grants immunity to the pension holder against its attachment. Similarly section 60(1) g of Civil Procedure Code bars attachment of pension benefits.
8. In a similar matter, the Hon'ble Supreme Court, in Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra (Appeal Civil 1874 of 1999) has held:-
"This Court has been repeatedly emphasising the position that pension and gratuity are no longer matters of any bounty to

be distributed by the Government but are valuable rights acquired and property in their hands...."

9. In the present case, Shri. Bhanudas Naik, the then PIO, though is guilty of not furnishing the information, has retired from service and his retirement benefits are beyond the scope of attachment. Similarly, disciplinary action under section 20 (2) of the Act can be initiated during the period of service and not after the retirement. Nevertheless, it is the statutory right of the appellant to seek information. This being the case, the appeal needs to be disposed with an appropriate order.
10. In the light of above discussion, the present appeal is disposed with the following order:-
- a) The present PIO is directed to furnish information sought by the appellant under point No. 1 and 2 of his application dated 08/01/2021, within 30 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