

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 126/2021/SIC

Shri. Tukaram Appa Patil,
R/o. Sunshine Hill, A/5/408,
Jagdamba Bhavan Marg,
Land Mark Near Brick Institute,
Pisoli-Pune (M.H.) 411060Appellant

V/s

1) The Public Information Officer,
Office of the Administrator of Comunidades,
North Zone, Mapusa-goia 403507

2) First Appellate Authority,
The Additional Collector-III,
Mapusa, Bardez-Goia, 403507 ...Respondents

Appeal filed on: 01/07/2021

Decided on: 27/05/2022

Relevant dates emerging from Appeal:-

RTI application filed on	: 21/12/2020
Application transferred on	: 18/01/2021
PIO replied on	: Nil
First appeal filed on	: 19/02/2021
FAA order passed on	: 03/06/2021
Second appeal received on	: 01/07/2021

ORDER

1. The brief facts of the appeal are that the appellant vide application dated 21/12/2020 sought certain information from the Attorney, Comunidade of Sirsaim. The said application was transferred to Respondent No. 1 Public Information Officer (PIO), however appellant, being aggrieved with no reply from the PIO, filed appeal dated 19/02/2021 before Respondent No. 2 First Appellate Authority (FAA). FAA vide order dated 03/06/2021 directed PIO to furnish the information. Further, appellant preferred the second appeal

before the Commission stating that he has still not received the information.

2. Pursuant to the notice, none appeared initially, however appellant filed submissions dated 03/08/2021, 16/08/2021, 03/11/2021, 21/02/2022 and 31/03/2022 by post. Advocate Sanjiv S. Sawant appeared on behalf of the PIO on 16/12/2021, 17/02/2022 and 30/03/2022, however filed no reply.
3. Appellant stated that he had sought information from the Attorney of the Comunidade of Sirsaim, the said application was transferred to the PIO, Administrator of Comunidade, North Zone. The information sought by him is pertaining to plot No. 80 lote No. 77 Sry. 27/01 and the same is available in the records of the PIO. On two occasions, earlier PIOs have furnished similar information, however the said information is incomplete and he is seeking the correct and complete information.
4. Shri. Tukaram Appa Patil, the appellant remained present on 29/04/2022 and argued the matter. Appellant stated that the PIO is evading the disclosure, in spite of the clear direction from the FAA to furnish the information. Hence appropriate direction alongwith stern warning be issued to the PIO.
5. On perusal of the records it is seen that the PIO was directed by the FAA to furnish the information, however the said order is not complied by the PIO. The information sought is neither exempted under section 8, nor rejected under section 9 of the Act. This being the case, the information is required to be furnished to the appellant. In addition to these observations, it is also noted that the PIO has not filed any reply to substantiate his stand. Advocate Sanjiv S. Sawant appeared before the Commission on behalf of the PIO, yet filed no submission.
6. Thus, the Commission concludes that the PIO has erred in not complying with the direction of the FAA and not furnishing the information to the appellant. What is even more serious is the fact that the PIO did not make any attempt to furnish the information. PIO has shown complete disregard to the provisions of the Act by not furnishing information available in his records. Hence the PIO is held guilty for not complying with section 7(1) of the Act and also for not adhering to the

direction of the FAA. Such a lapse is punishable under section 20(1) and /or 20(2) of the Act.

7. It is seen from the records that the PIO initially did not reply to the appellant, which under section 7(2) of the Act amount to deemed refusal of the request. PIO, during the hearing of the first appeal issued a reply to the appellant stating, that the information is not available. Later, during the proceeding of the second appeal, PIO took a stand that he orally had sought the information from clerk/Escrivao of the Comunidade which Clerk/Escrivao refused to disclose. However, PIO has not brought on record any evidence to substantiate his contention, on the contrary, it is noted that the PIO did not raise this point before the FAA, rather he preferred to remain absent during the hearing of the first appeal. Therefore, the contention of the PIO that he orally requested clerk/Escrivao to furnish the information and the same was denied by the clerk/Escrivao cannot be accepted.
8. The Commission further notes that the then PIO Shri. Ulhas Kadam has retired from service on superannuation, hence the Commission has no jurisdiction to invoke section 20 of the Act against the retired officer. However, the present PIO has to be assigned with the responsibility of furnishing the information to the appellant. PIO has the control over the records of Comunidade and he is required to call the said information and furnish the same to the appellant.
9. In the light of above discussion, the appeal is disposed with the following order:-
 - a) The present PIO is directed to furnish the information sought by the appellant vide application dated 21/12/2020, 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