

# GOA STATE INFORMATION COMMISSION

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

**Appeal No. 162/2021/SIC**

Mr. Roshan Mathias,  
H. No. 280, Bamon Waddo,  
Candolim, Bardez-Goa.403515

..... Appellant

**v/s**

1. The State Public Information Officer,  
North Goa Planning Development Authority,  
Panaji-Goa. 403001.

2. The First Appellate Authority,  
North Goa Planning Development Authority,  
Panaji-Goa. 403001.

..... Respondents

Filed on : 26/07/2021

Decided on : 13/01/2022

## **Relevant dates emerging from appeal:**

RTI application filed on	: 09/04/2021
PIO replied on	: 08/06/2021
First appeal filed on	: 01/06/2021
FAA order passed on	: Nil
Second appeal received on	: 26/07/2021

## **ORDER**

1. The brief facts of this appeal are that the appellant vide application dated 09/04/2021 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter referred as 'the Act') sought information under 3 points from respondent No. 1 Public Information Officer (PIO). The PIO did not reply within the stipulated period of 30 days and thus the appellant filed appeal dated 01/06/2021 before respondent No. 2 First Appellate Authority (FAA). The PIO subsequently replied vide letter dated

08/06/2021 denying the information, stating his office does not maintain information in the manner asked by the appellant.

2. It is the contention of the appellant that the FAA did not communicate, nor held any hearing within the mandatory period of 45 days. Being aggrieved, the appellant preferred second appeal before the Commission with prayers such as complete information free of cost, penalty be imposed on respondents under section 20 of the Act and compensation be granted to the appellant for harassment and detriment caused to him.
3. The concerned parties were intimated and the matter was taken up for hearing. The appellant appeared in person, whereas the PIO and the FAA were represented by Adv. Kiran K. More and Adv. Cannigia A. Carvalho. The PIO filed reply dated 23/09/2021 and additional reply dated 17/11/2021. The appellant filed a submission on 19/10/2021.
4. The appellant contended that the PIO has failed to abide by the RTI Act and has ignored the application instead of providing the information. PIO is required to respond within 30 days from the date of application, here he replied on 08/06/2021 to the application received by him on 09/04/2020, hence, the reply of PIO is invalid. The appellant further stated that the information sought should have been readily available as mandated by section 4 of the Act. Yet the PIO is avoiding the disclosure with malicious intent to hide his sins. That the FAA also failed to dispose the first appeal and the action of PIO and FAA are totally against the mandate of the Act.

5. On the other hand the PIO stated that the appellant's request was received on 09/04/2021, when the Covid-19 cases were on the rise, later PIO himself was infected and was in quarantine, hence he could not deal with the application within 30 days. Also that the inspection of files sought by the appellant is vague and voluminous and if at all the appellant wish to inspect any specific file then the same would have been provided by the PIO to appellant for inspection. The PIO further stated that the authority is not maintaining all such files sought by the appellant, together and therefore it is difficult for the PIO to provide the inspection of files applied by appellant. Also, that the appellant has not made any grievance before the authority in respect of provisions of section 4 of the Act.
  
6. The FAA stated that the appeal received by him on 01/06/2021 could not be decided in time on account of the high number of cases of Covid-19 positive patient and also the prevailing restrictions imposed by the Government.
  
7. It is seen from the records that the appellant filed his application dated 09/04/2021, which was not replied by the PIO within the stipulated period. Further, the appellant filed first appeal dated 01/06/2021, the same was not even heard, leave aside the disposal. Both – PIO and FAA for their inaction, have cited the reason of rising number of covid-19 cases, PIO being infected and restrictions imposed by the Government. The Commission is of the firm belief that despite the adversities mentioned above, the PIO could have replied to the appellant within the stipulated period, giving him probable dates/schedule to do the inspection of records available in his office by seeking assistance of any other officer of his office under section 5(4) of the Act. It is also noted that the

FAA made no efforts to hear the appeal, did not even issue notice to the concerned parties for hearing.

8. On the other hand, it is observed from the application of the appellant filed before the PIO on 09/04/2021, that the appellant has sought for information pertaining to regularisation of structures, relevant decisions of the authority, site inspection reports, minutes of the meetings, NOC/permission/technical clearance certificates issued etc. in Candolim and Calangute Village based on the outline Development Plan of Calangute and Candolim 2025 from 01/01/2018 till date. The information requested by the appellant is indeed voluminous and the PIO may find it really difficult to furnish the same without being identified by the appellant. This being the case, the appellant himself has sought this information 'after inspection', meaning he is requesting for the inspection, and then the information. However, the information sought being voluminous the inspection may consume lot of time and therefore the PIO will be required to prepare a schedule for undertaking the inspection of the records and the appellant will have to follow the same in order to get the information he desires.

9. The Hon'ble Supreme Court, in Civil Appeal No. 6454 of 2011 (arising out of SLP © No. 7526/2009), Central Board of Secondary Education and another V/s Aditya Bandopadhyay and Others has held in para 35:-

*"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or*

*abstracts, or statistics, an applicant may access such information, subject to the exemptions in [section 8](#) of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in [section 2\(f\)](#) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the [RTI Act](#).*

10. Para 37 of the same judgment reads:-

*"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of [RTI Act](#) should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of [section 4\(1\)](#) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information,(that is information other than those enumerated in [section 4\(1\)\(b\)](#) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under [RTI Act](#) for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely*

*affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."*

10. Considering the facts of the matter and the ratio laid down by the Hon'ble Supreme Court in the above-mentioned case, the Commission concludes that the appellant deserves the information, however furnishing of the information will not be possible without identification of the same by the appellant. Therefore, the appellant will be required to visit PIO'S office as per the schedule prepared by the PIO. The appellant has already prayed for the inspection and the PIO, in his reply and during arguments have shown readiness to provide the inspection of the records available in his office.

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

- (a) The PIO is directed to provide inspection of the records to the appellant pertaining to the information sought vide application dated 09/04/2021, within 15 days from the receipt of this order.

- (b) The appellant shall convey the records identified by him during the inspection and the PIO is directed to furnish the information identified by appellant within 7 days from the date of completion of inspection, free of cost.
- (c) The PIO and the FAA are directed to deal with RTI applications and appeals respectively, with more diligence and efficiency, keeping in tune with the spirit of the Act.

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