

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 282/2021/SIC

Siddhi Naik,
CS2, Mystical Rose Apartment,
Dicarpali-Davorlim,
Salcete-Goa 403707

..... Appellant

v/s

1. The Public Information Officer (PIO),
Directorate of Art and Culture,
Panaji-Goa 403001
2. The First Appellate Authority (FAA),
Directorate of Art and Culture,
Panaji-Goa 403001

..... Respondents

Filed on : 12/11/2021

Decided on: 28/03/2022

Relevant dates emerging from appeal:

RTI application filed on	: 16/09/2021
PIO replied on	: 12/10/2021
First appeal filed on	: 12/10/2021
FAA order passed on	: Nil
Second appeal received on	: 12/11/2021

ORDER

1. The brief facts of this appeal as contended by the appellant are that the appellant vide application dated 16/09/2021 sought information from respondent No. 1 Public Information Officer (PIO). The PIO vide reply dated 12/10/2021 refused to furnish information, hence the appellant preferred appeal on the same day before respondent No. 2 First Appellate Authority (FAA). The FAA vide order dated 26/10/2021 disposed the appeal without any directions to the PIO. Being aggrieved with both the respondents, appellant filed second appeal before the Commission.

2. Notice was issued to the concerned parties and the matter was taken up for hearing. Shri. Naveen Shirodkar appeared on behalf of appellant under letter of authority. PIO filed reply dated 10/01/2022 and later FAA filed reply on 27/01/2022. Representative of appellant though remained present initially, subsequently stayed away from proceeding, neither collected copy of reply of respondents, nor filed any submission.
3. PIO stated in his reply that the appellant had sought information pertaining to recruitment of Music Trainers and Accompanists of the department. PIO furnished the available information, and since the recruitment process was in progress the complete information could not be furnished now the said matter is sub-judice before the Honourable High Court of Bombay at Goa. PIO further stated that the available information will be provided to the appellant, however the answer sheets of selected candidates cannot be furnished since the information is related to third person.
4. FAA stated vide reply dated 27/01/2022 that he conducted first hearing of the appeal on 26/10/2021 wherein PIO filed his reply. On 02/11/2021 he directed PIO to provide the details of marks obtained and inspection of applications, for which PIO sought time of 5 days. The matter was fixed on 09/11/2021 at 11.30 a.m. for compliance. However appellant did not attend the hearing and subsequently filed second appeal before the Commission, therefore the appeal is premature.
5. Appellant contended that PIO has not cited provisions of the Act under which he denied the information. The information sought was available in the office of the PIO, nevertheless, his reply stated that information cannot be provided since recruitment was in progress. However, recruitment process was already completed and the desired information was required to be furnished.
6. Upon perusal of the records and submissions it is seen that the appellant filed first appeal dated 12/10/2021, after receiving PIO's reply which denied her the information. As per the provisions of section 19(6) of the Act, FAA is required to dispose the appeal received under section 19(1) of the Act, within maximum of 45 days. It means the FAA had time till 26/11/2021 to decide the appeal. According to the reply dated 27/01/2022, filed before the Commission, FAA states that he had directed PIO to furnish information and the matter was kept for compliance on 09/11/2021. The FAA was well within the mandatory period and hence appellant was required to wait for the hearing to complete

or till the stipulated period. Instead, she did not appear before the FAA on 05/11/2021 and filed second appeal before the Commission on 12/11/2021, which is premature.

7. Considering these facts, the Commission concludes that the appellant has filed this appeal before the completion of mandatory period as provided under section 19(6) of the Act to decide the first appeal. Therefore an opportunity needs to be given to the FAA to decide the matter and pass an appropriate order.
8. In the light of above discussion, the appeal is disposed with the following order:-

- (a) The matter is remanded to the FAA and the FAA is directed to decide the matter by passing an appropriate order on merit, based on the proceeding held before him.
- (b) The appellant shall approach this Commission by way of second appeal, if aggrieved with the order of the FAA, within the period of limitation, as provided under section 19(3) 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