

# GOA STATE INFORMATION COMMISSION

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

**Appeal No. 308/2021/SIC**

Shri Jose Vivek Dias,  
H. No. 1292, Subraya Naik Road,  
Old Market, Margao-Goa

..... Appellant

**v/s**

1. The Public Information Officer (PIO),  
Shri. Prashant Narvekar,  
Margao Municipal Council,  
Margao-Goa

2. Shri. Agnelo A. Fernandes,  
The First Appellate Authority (FAA),  
Chief Officer, Margao Municipal Council,  
Margao-Goa

..... Respondents

Filed on: 31/12/2021

Decided on: 27/05/2022

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

RTI application filed on	: 23/08/2021
PIO replied on	: 17/09/2021
First appeal filed on	: 07/10/2021
FAA order passed on	: Nil
Second appeal received on	: 31/12/2021

## **ORDER**

1. The second appeal filed under section 19(3) of the Right to information Act, 2005 (hereinafter referred to as the 'Act') against Respondent No. 1 Public Information Officer (PIO) and Respondent No. 2 First Appellate Authority (FAA) came before the Commission on 31/12/2021.
2. The brief facts of the appeal are that the appellant vide application dated 23/08/2021 sought information on nine points from the PIO. Aggrieved by the reply dated 17/09/2021 issued by the PIO, appellant filed appeal dated 07/10/2021 before FAA. Appellant contends that he was compelled to file the second

appeal before the Commission since the FAA did not hear the appeal within the mandatory period.

3. Pursuant to the notice issued by the Commission, Smt. Aysha K. Miranda, wife of the appellant, appeared under authority letter. Respondent PIO Shri. Prashant Narvekar (the then PIO) appeared in person and filed reply dated 03/03/2022. Shri. Shrikant V. Lawande, present PIO appeared before the Commission and filed reply dated 24/01/2022 and 13/04/2022. Shri. Agnelo A. Fernandes, FAA remained present on 28/01/2022 and filed his submission. Appellant filed a submission dated 22/04/2022.
4. Shri. Prashant Narvekar, the then PIO stated that vide reply dated 17/09/2021 he had communicated to appellant to visit his office to inspect the available records. Later, vide letter dated 06/10/2021 he requested the appellant to collect the available information and also intimated that the remaining information is not available. Further, vide letter dated 23/12/2021 PIO reminded the appellant that he has not collected the information.
5. Shri. Shrikant V. Lawande, present PIO stated that the information as available in the office record has been furnished to the representative of the appellant including, copy of the postal register maintained by the council, which was inquired and asked by the appellant. Shri. Shikant V. Lawande further stated that he and the then PIO together have furnished the required information to the representative of the appellant.
6. Shri. Agnelo A. Fernandes, FAA stated vide his submission that the information called for is already replied within time. However, the appellant has not collected the information by paying the amount, hence no appeal lies before him.
7. Appellant submitted that as per the direction of the Commission information as available in records of PIO has been furnished to him. However PIO has failed to produce evidence to prove that the letter dated 06/10/2021 was issued by the authority. Hence, the appellant prays for written warning to the PIO and FAA for not respecting the provision and spirit of the Act, penal action against the respondents and award of compensation to him.
8. After perusal of the records of this matter the Commission arrives at following findings:-

- a) Appellant vide his application requested for information on nine points and PIO, within the stipulated period requested the appellant to undertake inspection of the records. However, letter dated 06/10/2021 issued by the PIO asking the appellant to pay Rs. 140/- in respect of information on point No. 1, 2, 6, 7 and 9 was issued after the stipulated period, hence appellant is not required to pay the charges to get the information. Nevertheless, PIO furnished the said information during the proceeding of the second appeal and appellant acknowledged the same.
  - b) PIO has claimed that certain information is not available in the records, hence cannot be furnished and, appellant has acknowledged the said stand of PIO. Hence, PIO need not be directed to furnish the additional information.
  - c) PIO has failed to produce evidence on record to prove that reply dated 06/10/2021 was dispatched to the appellant. However, subsequently the information has been furnished to the appellant as per the direction of the Commission.
  - d) There is no evidence to show that there was a malafide intention on the part of the then PIO as well as the present PIO. However PIOs are required to process the applications and furnish the information within 30 days. PIOs in this case furnished the information after the stipulated period, nonetheless revoking of section 20 against the PIOs is not required.
9. It is seen that the appellant had filed first appeal before the FAA on 07/10/2021 which was not heard at all by the authority. FAA has stated in his submission that no appeal lies since the appellant has not collected the information. The Commission observes that this approach by the FAA towards the appellant is not in tune with the spirit of the Act. Section 19(1) provides for appellant to file appeal against the action of the PIO and section 19(6) of the Act mandates FAA to hear and dispose the appeal within maximum of 45 days. FAA in this matter has failed to act as per the provisions of the Act causing inconvenience to the appellant. Non hearing of the first appeal is considered as de-reliction in duty, such a conduct and ignorance of the

provisions of the Act is not expected from a senior Government Officer working as Chief Officer of Margao Municipal Council. However, the Act does not provide for any punishment to the FAA. Thus the Commission issues stern warning to the then FAA to hear and dispose the appeals within 45 days.

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

- a) Information requested by the appellant vide application dated 23/08/2021 has been furnished as available, by the PIO. Hence the prayer for information becomes infructuous and no more intervention of the Commission is required in this matter.
- b) The then PIO and the present PIO are directed to deal with the applications received under section 6(1) of the Act, more diligently, respecting the letter and spirit of the Act.
- c) FAA is directed to hear and decide appeals received under section 19(1) of the Act, strictly as provided by the law.

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