

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. 70/2022/SIC

Umesh S. Mangeshkar,
H. No. 368, Dongrim,
Dhakte-Bhat, Mandur,
Tiswadi-Goa 403104

..... Appellant

V/s

1. The Public Information Officer (PIO),
Office of the Mamlatdar, Panaji
Tiswadi-Goa, 403001
2. The First Appellate Authority,
The Mamlatdar of Panaji,
North Goa 403001

..... Respondents

Filed on: 04/03/2022
Decided on: 22/07/2022

Relevant dates emerging from appeal:

RTI application filed on	: 02/11/2021
PIO replied on	: 12/01/2022
First appeal filed on	: 16/12/2021
FAA order passed on	: Nil
Second appeal received on	: 04/03/2022

ORDER

1. The brief facts of this appeal are that the appellant vide application dated 02/11/2021 sought certain information from Respondent No. 1, Public Information Officer (PIO). Upon not receiving the information within the stipulated period, he filed appeal dated 16/12/2021 before the Deputy Collector, Panaji which was transferred vide letter dated 20/12/2021 to Respondent No. 2, First Appellate Authority (FAA). Appellant received no intimation from the FAA, hence under section 19(3)

of the Right to Information Act, 2005 (for short, the 'Act') filed second appeal before the Commission.

2. Pursuant to the notice, appellant appeared before the Commission and stated that the PIO has denied him the information without any valid cause. PIO did not respond to appellant's application within the stipulated period and sent a reply dated 12/01/2022 stating the information is not traceable, only after he filed the first appeal. The requested information is available in the office of the PIO and it is the right of the appellant to seek the same. Appellant further stated that he is aggrieved because the information is not furnished by the PIO and also, since the first appeal is not heard by the FAA.
3. Upon perusal of the records it is seen that the notice for appearance and reply was issued on 23/03/2022, however the PIO and the FAA did not appear before the Commission. Subsequently another notice dated 29/04/2022 was issued and the same was delivered to the respondents on 02/05/2022, yet none from the respondent's side appeared, nor any submission was filed on their behalf.
4. Information sought by the appellant is eligible as information under section 2(f) of the Act and the same is neither exempted under section 8, nor rejected under section 9 of the Act. Hence, the PIO under section 7(1) of the Act was mandated to furnish the said information. PIO vide letter dated 12/01/2022, issued after the expiry of the stipulated period of 30 days, has stated that the information sought is not traceable in the office records. However, the Commission observes that the PIO was required to trace the records and furnish the information, else he was required to take appropriate action if the records are not

traceable. PIO has failed to furnish the information and also to take appropriate action in order to trace the records.

5. The Commission notes that the appellant had filed first appeal before the Deputy Collector, Panaji. The said appeal was transferred to the Mamlatdar of Tiswadi, since the Mamlatdar is the first appellate authority for the office of the Mamlatdar. First Appellate Authority (FAA) is required to dispose appeal received under section 19(1) of the Act within maximum of 45 days. However, the FAA in the present matter did not hear, nor passed any order. Non hearing of the appeal filed under 19(1) of the Act, by the FAA, amounts to de-reliction of duty.
6. Hon'ble High Court of Delhi in W. P. (c) 3845/2007; Mujibur Rehman V/s Central Information Commission has held:-

" Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure, they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their Officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy."

7. Considering the above mentioned facts and findings and subscribing to the ratio laid down by the Hon'ble High Court of Delhi, the Commission finds the concerned PIO and the FAA guilty of not honouring the provisions of the Act and more so, the PIO for not respecting directions of the Commission. Hence, the Commission finds it necessary to invoke section 20 of the Act against the guilty PIO. However, the Act does not provide for any punishment to the FAA. This being so, stern warning is

required to be issued to the FAA to hear and decide the appeals received under section 19(1) of the Act.

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

- a) PIO is directed to trace the records and furnish the information sought by the appellant vide application dated 02/11/2021, within 20 days from the receipt of this order, free of cost.
- b) Issue notice to Shri. Sanjeev Signapurkar, PIO, Office of the Mamlatdar of Tiswadi, and the PIO is further directed to show cause as to why penalty as provided under section 20 (1) of the Act should not be imposed against him.
- c) In case the PIO of the relevant time, Shri. Sanjeev Signapurkar is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date fixed in the matter, alongwith the present address of Shri. Sanjeev Signapurkar, the then PIO.
- d) PIO is hereby directed to remain present on 25/08/2022 at 10.30 a.m. alongwith the reply to the showcause notice.
- e) The Registry is directed to initiate penalty proceeding against the PIO.

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