

# GOA STATE INFORMATION COMMISSION

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

**Appeal No. 90/2021/SIC**

Shri Sushant Nagvenkar,  
H. No. C-312, Fondevem,  
Ribandar-Goa

..... Appellant

**v/s**

1. The Public Information Officer (PIO),  
Office of the Mamlatdar, Tiswadi,  
Panaji-Goa

2. Rahul Desai, Mamlatdar &  
The First Appellate Authority,  
Office of the Mamlatdar, Tiswadi,  
Panaji-Goa

..... Respondents

Filed on : 12/04/2021

Decided on: 19/04/2022

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

RTI application filed on	: 09/10/2020
PIO replied on	: Nil
First appeal filed on	: 13/11/2020
FAA order passed on	: 08/12/2020
Second appeal received on	: 12/04/2021

## **ORDER**

1. Aggrieved by the action of Respondent No. 1 Public Information Officer (PIO) and Respondent No. 2 First Appellate Authority (FAA), appellant filed second appeal under section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the Act), before the Commission with prayers such as directions to PIO to provide for inspection and the information, as well as disciplinary action and penalty under section 20 of the Act on the respondents.
2. The concerned parties were intimated vide notice dated 10/06/2021. Pursuant to the notice, appellant Shri. Sushant Nagvenkar and Shri. Sanjeev Signapurkar, PIO appeared in person.

PIO filed reply dated 25/08/2021, whereas appellant on 28/09/2021 submitted counter reply to the reply of PIO. Shri. Rahul Desai, FAA appeared in person on 29/09/2021, however filed no say.

3. PIO vide his reply stated that as per the direction of FAA issued on 08/12/2020, he was ready to provide for inspection of the records sought by the appellant, on 18/12/2020 at 3.30 p.m., however the appellant did not visit office of the PIO on the given date and time. PIO further stated that he is ready and willing to provide the information free of cost upon inspection of the records/ documents at any date fixed by the Commission.
4. Appellant submitted that he had sought inspection and certified copies of desired documents post inspection. PIO failed to give decision and did not reply to the request within the stipulated period, which amounts to deemed refusal of the request. Appellant further submitted that though he could not visit PIO's office for inspection on 18/12/2020, he visited office of PIO as well as FAA later, praying for the information. Yet, neither the information was furnished by the PIO nor his prayer for reasoned order was addressed by the FAA.
5. Appellant, while arguing the matter on 18/02/2022 contended that inspite of number of visits to his office, PIO has evaded the inspection and the information. Also that the FAA was required to pass a reasoned order on the first appeal, and that he has not received copy of FAA's order.
6. Upon careful perusal of the records of the present appeal it appears that the PIO within stipulated period, did not provide for inspection of the concerned file which the appellant had requested vide application dated 09/10/2020. Subsequently FAA directed the PIO to provide for inspection and relevant documents identified by the appellant after the inspection. Appellant did not visit PIO's office on that day i.e. 18/12/2020, however claims that later he visited PIO's office on many occasion, yet PIO did not provide him inspection and information. Appellant has not substantiated his claim with any documental evidence, hence the Commission does not consider the same. PIO is guilty of not responding to the request within the stipulated period, however he was willing to provide the inspection on 18/12/2020, as directed by the FAA. Further, PIO has stated before the Commission that he is willing to provide the inspection and information on any day. Hence the

Commission concludes that the approach of PIO is not adamant, rather willing to furnish the information.

7. The appellant while objecting to the reply of PIO, has relied on the judgement by Hon'ble High Court of Kerala in Treesa Irish v/s Central Public Information Officer and Ors., W.P. (C) No 6532 of 2006 (c). It is the contention of the appellant that PIO, in his reply has attempted to justify the action of FAA. However, the Commission observes that the PIO has narrated the sequence of events prior to the second appeal, and has nowhere in the reply attempted to justify the action of FAA. In the present matter, the judgement relied upon by the appellant is out of context to this appeal and therefore has no relevance.
8. Appellant has prayed for invoking section 20 of the Act to initiate disciplinary action against the respondent and imposition of penalty on the PIO. Notwithstanding with this prayer, the Commission notes that though the PIO did not furnish the information within the stipulated period, subsequently he has shown willingness to provide for inspection and documents identified during the inspection. There is no persistent default on the part of the PIO in delaying the information. Thus no maldfide can be attributed to the action of PIO.
9. Hon'ble High Court of Bombay, Goa bench at Panaji, in writ petition No. 205/2007, Shri. A. A. Parulekar V/s Goa State Information Commission, has held that:-

*"The Order of Penalty for failure is akin to action under Criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."*
10. Considering the findings of the Commission and the ratio laid down by the Hon'ble High Court of Bombay in the above mentioned judgement, the Commission concludes that the prayer for disciplinary action and imposition of penalty on the PIO needs to be rejected.
11. In the light of above discussion, the appeal is disposed with the following order:-
  - a) Public Information Officer (PIO) is directed to provide for the inspection of the records sought by the appellant vide

application dated 09/10/2020 and furnish documents identified therein, within 15 days from the receipt of this order, free of cost.

b) First Appellate Authority (FAA) and PIO are directed deal with appeals and applications respectively, filed under the Act, strictly as per the provision of the law.

c) 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