

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 92/2021/SIC

Shri Jawaharlal T. Shetye,
H.No. 35/A, Ward No. 11, Khorlim,
Mapusa-Goa, 403507

..... Appellant

v/s

1. The Public Information Officer (PIO),
Mapusa Municipal Council,
Mapusa-Goa, 4035072

2. The First Appellate Authority (FAA),
The Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa, 403507

..... Respondents

Filed on: 15/04/2021
Decided on: 06/05/2022

Relevant dates emerging from appeal:

RTI application filed on	: 01/02/2021
PIO replied on	: Nil
First appeal filed on	: 04/03/2021
FAA order passed on	: 30/03/2021
Second appeal received on	: 15/04/2021

ORDER

1. The brief facts of this appeal are that the appellant vide application dated 01/02/2021 sought certain information from Respondent No. 1 Public Information Officer (PIO). Aggrieved by no response he filed appeal dated 04/03/2021 before Respondent No. 2 First Appellate Authority (FAA). FAA vide order dated 30/03/2021 directed the PIO to furnish the information. PIO vide letter dated 08/04/2021 furnished the information, however not satisfied with the said information, appellant filed second appeal under section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act').

2. Pursuant to the notice Shri. Vinay Agarwadekar, Assistant Public Information Officer appeared in person, however filed no reply.

Appellant chose to remain absent during most of the proceeding, though has prayed for the information.

3. It is seen from the records of this case that the appellant had sought information on seven points and the PIO showed no interest in furnishing the same during the stipulated period. PIO, after the direction from the FAA, furnished information vide letter dated 08/04/2021 on point No. 1, 3, 4 and stated that the information on point No. 2, 5, 6, 7 is not available. The said information is not exempted under section 8 and/or section 9 of the Act. Hence the same is required to be in the custody of the PIO and he is mandated by the law to furnish to the appellant.
4. It is observed that the then PIO has not cited any reasons, nor has made any efforts to trace the said information in order to furnish the same to the appellant. Hence the then PIO is guilty of not furnishing the complete information and similarly guilty of not complying with the order of the FAA. Such an action is punishable under section 20(1) and 20 (2) of the Act. In case of default, a penalty which is levied in terms of money, being personal in nature, is recoverable from the salary payable to such employee, during his/her service.
5. However, it is seen from the records that Shri. Bhanudas Naik, the then PIO has retired from the service on superannuation and section 11 of the Pension Act, 1871, grants immunity to the pension holder against its attachment. Similarly section 60(1)(g) of Civil Procedure Code bars attachment of pension benefits.
6. In a similar matter, the Hon'ble Supreme Court, in Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra (Appeal Civil 1874 of 1999) has held:-

"This Court has been repeatedly emphasising the position that pension and gratuity are no longer matters of any bounty to be distributed by the Government but are valuable rights acquired and property in their hands...."
7. In the present case, Shri. Bhanudas Naik, the then PIO, though is guilty of not furnishing the information, has retired from service and his retirement benefits are beyond the scope of attachment. Similarly, disciplinary action under section 20 (2) of the Act can be initiated during the period of service and not after the retirement. Nevertheless, it is the statutory right of the appellant to seek information. This being the case, the appeal needs to be disposed with an appropriate order.

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

a) The present PIO is directed to furnish information sought by the appellant under point No. 2, 5, 6, 7 of his application dated 01/02/2021, within 30 days from the receipt of this order, free of cost.

b) 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