

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 04/2022/SIC

Mr. Uday A. C. Priolkar,
H. No. C-5/55, Mala,
Panaji-Goa 403001

..... Complainant

V/s

1. The Public Information Officer (PIO),
Assistant Director (SC/OBC/ST),
Directorate of Social Welfare,
18th June Road, Panaji-Goa
2. The First Appellate Authority (FAA),
Dy. Director (Admn),
Directorate of Social Welfare,
18th June Road, Panaji-Goa

..... Opponents

Filed on : 07/02/2022

Decided on: 17/06/2022

Relevant dates emerging from Complaint:

RTI application filed on	: 22/07/2021
PIO replied on	: 11/08/2021
First appeal filed on	: 19/08/2021
FAA order passed on	: Nil
Complaint received on	: 07/02/2022

ORDER

1. The brief facts of this case are that the complainant vide application dated 22/07/2021 had sought certain information under section 6(1) of the Right To Information Act, 2005 (for short, the 'Act') from Opponent No. 1 Public Information Officer (PIO). The said information was denied by the PIO under section 8(1)(h) of the Act, being aggrieved, the complainant filed appeal dated 19/08/2021 before opponent No. 2 First Appellate Authority (FAA). However, the appeal was not heard within the mandatory period and the complainant preferred complaint under section 18 of the Act, against the PIO and the FAA.

2. Pursuant to the notice, complainant appeared before the Commission on 28/03/2022 and filed a submission on 12/05/2022. Shri. Devu H. Gaonkar, PIO, appeared in person and filed reply dated 28/03/2022 and 04/05/2022.
3. PIO, vide reply dated 28/03/2022 stated that the information sought by the complainant pertains to verification of caste certificate which is currently under the inquiry of the scrutiny committee. Disclosure of the same would impede the inquiry, hence the information is exempted from disclosure under section 8(1)(h) of the Act.
4. Subsequently on 25/04/2022, PIO stated that the inquiry has been completed and he is willing to provide for the inspection of the records, sought by the complainant and furnish the information. Later, vide reply dated 04/05/2022 PIO stated that the complainant visited his office on 04/05/2022 and has identified the information and the same will be furnished to him.
5. Complainant, who initially filed the appeal before the Commission, was aggrieved for two reasons. One- that the PIO did not furnish the information and two- that the FAA did not hear the appeal. Subsequently complainant appeared on 12/05/2022 and acknowledged that the PIO has provided for the inspection and has furnished the information. Complainant submitted that he has no grievance against the PIO, however he is pressing for action against the FAA for not hearing first appeal.
6. After perusal of the records, it is seen that the PIO initially denied the information under section 8(1) (h) of the Act since the matter was under inquiry. However later, he complied with the directions of the Commission to provide for the inspection and also furnished the information. Therefore, the Commission concludes that the PIO has furnished the information and there is no malafide behind the delay in furnishing the information.
7. Complainant has pressed for action against the FAA for failing to hear the first appeal. Section 19(1) provides for applicant to file appeal before the FAA and under section 19(6) of the Act, the FAA is required to hear and decide the appeal within maximum of 45 days. The FAA, in the present matter, has failed to adhere to

section 19(6) of the Act, thus he is guilty for his inaction and for disrespecting the provisions of the Act. However, the Act provides for penal action only against the PIO and the Commission has no jurisdiction to invoke section 20 of the Act against the FAA. This being so, the Commission issues stern warning to FAA to deal with first appeals more diligently.

Complainant, while pressing for action against the FAA, has relied on Hon'ble High Court of Punjab and Haryana in Ramesh Sharma and Anr. V/s The State Information Commission and Ors., Hon'ble High Court of Kerala in V. B. Santhosh V/s Central Public Information Officer and Ors., Hon'ble High Court of Delhi in Rajeev Verma V/s UOI and Anr. However, the Commission finds that the matter in these cases is different than the current complaint, hence the said authorities are not relevant to the present proceeding.

8. In the light of the above discussion the complaint is disposed with the direction to the FAA to decide the first appeals received under section 19(1) of the Act, strictly as per the provisions 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