

**GOA STATE INFORMATION COMMISSION**

“Kamat Towers” 7<sup>th</sup> Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.scic.goa.gov.in](http://www.scic.goa.gov.in)

---

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

**Appeal No. 120/2023/SIC**

Smt. Priyanka P. Vaingankar,  
Ex. Deputy Director,  
Apna Ghar Mercedes,  
H.No. 1341/A, “Aditri Niwas”,  
St. Barbara, St. Cruz,  
Tiswadi, North-Goa.

-----Appellant

**v/s**

1. Smt. Shambhavi Gaonkar,  
Public Information Officer/Head Clerk,  
Directorate of Women & Child Development,  
Panaji-Goa 403001.

2. Smt. Dipali Naik,  
First Appellate Authority,  
Director of Women & Child Development,  
Old Education Building,  
Panaji-Goa 403001.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 07/10/2022
PIO replied on	: 08/11/2022
First appeal filed on	: 02/02/2023
First Appellate Authority order passed on	: Nil
Second appeal received on	: 03/04/2023
Decided on	: 31/07/2023

**ORDER**

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the ‘Act’), had sought information on two points. It is the contention of the appellant that PIO failed to furnish the information within the stipulated period, hence, she filed first appeal before the First Appellate Authority, which was not decided by the authority. Being aggrieved, appellant under Section 19 (3) of the Act filed second appeal against Respondent No. 1, Smt. Shambhavi Gaonkar, Public Information Officer (PIO), Directorate of Women & Child Development and Respondent No. 2, Smt. Deepali Naik, First Appellate Authority (FAA), Directorate of Women & Child Development, which came before the Commission on 03/04/2023.
2. Pursuant to the notice, PIO appeared in person, filed reply on 18/05/2023 and affidavit in reply dated 13/06/2023. FAA opted not to be present, however, on 18/05/2023 filed reply through the PIO.

Appellant appeared and filed rejoinder dated 14/06/2023 to the replies of PIO and FAA.

3. Smt. Shambhavi Gaonkar, PIO stated that, vide reply dated 08/11/2022 she had informed the appellant that the information on point no. 1 was not available and information on point no. 2 cannot be furnished, as the date is not clear due to overwriting by the appellant. PIO further submitted that, if the correct date is provided by the appellant and if the said information is available in the records, she is willing to furnish the same.
4. Smt. Deepali Naik, FAA stated vide reply dated 18/05/2023 that, she had received the first appeal on 02/02/2023 and had issued notice for hearing on 15/03/2023. However, the hearing got postponed to 20/03/2023, accordingly the appellant was informed. On 20/03/2023 the appellant failed to attend the hearing and thereafter the hearing was not taken due to other time bound duties. FAA further stated that, she has now scheduled the next date of hearing on 09/06/2023.
5. Appellant submitted that, she is aggrieved by the reply of the PIO, as the information sought has to be available in the custody of the PIO and that, PIO's negligence has compelled her to file first appeal. Appellant further stated that, the FAA instead of disposing the appeal within the mandatory period, kept on issuing notices for hearing even after the expiry of mandatory period and after the second appeal was being heard before the Commission, yet, the FAA did not hear the matter even once and did not pass any order. The said conduct of the FAA amounts to harassment of the appellant, thus she is seeking strict action against both the respondents.
6. Upon perusal of the records of the instant matter it is seen that the appellant vide application dated 07/10/2022 had sought information as follows:-
  1. Certified copy of the requisition / note from Smt. Belokar, S.P.O., Apna Ghar, regarding providing manpower and other items like masks , water bottles, etc. for conducting cooking test for the post of cooks in Apna Ghar which was forwarded by Ex. Deputy Director to the Director, Directorate of Women & Child Development, Panaji in the year 2021.
  2. Certified copy of the requisition / note regarding purchase of garden tools for Apna Ghar addressed to the Director, Directorate of Women & Child Development, Panaji-Goa by Smt. Sumedha Belokar, SPO, when she was holding Addl. Charge of Deputy Director, Apna Ghar, Merces from March, 2022 till --/05/2022."

PIO, in her reply conveyed the appellant that information on point no. 1 is not available in her records and with respect to point no. 2, information sought till date is overwritten, hence, rejected as PIO is not supposed to interpret issues to provide the information under the Act.

7. During the hearing of the second appeal on 18/05/2023, the Commission directed the PIO to file an affidavit giving the status of the information on point no. 1 with respect to PIO's contention that the same is not available. Similarly, upon Commission's suggestion the appellant clarified to the PIO on the overwritten date and accordingly the Commission directed the PIO to furnish the information on point no. 2. It was observed that the date till, which, the information sought under point no. 2 was unclear due to overwriting by the appellant.
8. Later on 14/06/2023, PIO filed an affidavit stating that the information sought on point no. 1 and 2 is not available in the office records of the Department. With this, the Commission holds that the information requested by the appellant is not available with the PIO. Thus, she cannot be directed to furnish the information, not available in her records, nor can she be held guilty of not complying with Section 7 (1) of the Act. Needless to say that, in case at any time the statement in the said affidavit is found false, the person swearing it would be liable for action for perjury.
9. Other aspect of the present matter is regarding the proceeding and non disposal of the first appeal. The first appeal was filed under Section 19 (1) of the Act by the appellant on 02/02/2023. The Right to Information Act, 2005 has given statutory right to the Appellant to file appeal against the rejection/deemed denial of the information by the PIO, before the First Appellate Authority under section 19 (1) and the FAA is required under section 19 (6) to dispose the first appeal within 30 days or within such extended period not exceeding a total of 45 days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
10. The first appeal was filed on 02/02/2023, meaning the same was required to be disposed within maximum of 45 days, that is, before 19/03/2023. The Commission is astonished to note that the first hearing on the appeal was scheduled by the FAA on 15/03/2023, after the expiry of 30 days. Subsequent hearings were scheduled on 12/04/2023 and 28/04/2023. In the meanwhile, aggrieved appellant

filed second appeal before the Commission. Notice dated 27/04/2023 was issued to PIO and FAA to appear and file say on 18/05/2023, before the Commission. Ridiculously, FAA, having complete knowledge of the fact that she has not disposed the first appeal within the mandatory period, files reply before the Commission stating that she has scheduled the next hearing of first appeal on 09/06/2023. The Commission shall not call the FAA ignorant since the FAA in the present matter is a senior officer of Government of Goa, working as Director of Women and Child Development Department. The Commission presumes that the FAA is aware of her duties and responsibilities under the Act. Yet, she schedules hearing of first appeal after the expiry of mandatory period, issues notice to the appellant even when the second appeal is being heard before the Commission, keeps appellant waiting and without being heard, more than one occasion.

11. Further, the FAA contends before the Commission that the hearing could not be conducted due to other time bound duties allotted by the Government. Such an absurd excuse cannot be accepted since the FAA was statutorily mandated under Section 19 (6) of the Act to decide the appeal within the maximum period of 45 days in which she has miserably failed. Issuing notice after notice, after the expiry of the mandatory period, defying the provisions of the Act is nothing but indecorous behavior and the said conduct is unbecoming of a senior administrative officer. Only irresponsible and insensitive officer can display such shameless misuse of the authority, may be only with an intention of harassing the appellant.
12. The FAA in the instant matter is living in her own paradise by wrongly believing that the appellate authority gets indefinite time to decide the appeal and unlimited authority to harass the appellant. This being one of the worst case of arrogant and incautious conduct needs to be punished for violation of the provisions of law. However, as per the provisions of the Act, only the PIO can be penalised under section 20. There is no any provision conferring powers to the Commission to impose penalty or initiate disciplinary proceedings against the FAA. In the above circumstances, the Commission finds it appropriate to recommend the Chief Secretary to issue instructions to all FAAs to adhere to the provisions of the Act with respect to hearing of first appeal in the time frame provided, and communicate the order to the appellant and respondents.
13. With these observations and findings, the Commission concludes that the information sought by the appellant vide application dated

07/10/2022 is not available in the records of the PIO, hence no direction can be issued to the PIO, as held in Para 8 above. Similarly, appropriate action needs to be initiated against the FAA for not disposing the first appeal.

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

a) The Chief Secretary, Government of Goa shall seek an explanation from Smt. Deepali Naik, the then FAA and Director of Women and Child Development Department, for not deciding the first appeal in conformity with Section 19 (6) of the Act. The Registry is directed to send the copy of this order to the Chief Secretary, Government of Goa.

b) In case Smt. Deepali Naik, FAA and Director of Women and Child Development Department is transferred, the present FAA is directed to serve this order to the then FAA and produce the acknowledgement before the Commission within 10 days from the receipt of this order.

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.

