

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 126/2023/SIC

Sulavati G. Kankonkar,
Malebhat, Curca,
P.O. Goa Velha, Tiswadi Goa 403108.

-----Appellant

v/s

1. Public Information Officer (PIO),
Office of the Village Panchayat,
Curca, Bambolim & Talaulim,
Tiswadi- Goa.

2. First Appellate Authority,
Office of the Block Development Officer,
Junta House, Panaji-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 06/12/2022
PIO replied on	: 07/01/2023
First appeal filed on	: 10/01/2023
First Appellate Authority order passed on	: 24/03/2023
Second appeal received on	: 13/04/2023
Decided on	: 09/10/2023

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), had requested for information on twelve points. It is the contention of the appellant that he received incomplete information from the Public Information Officer (PIO), thus, filed first appeal before the First Appellate Authority (FAA), however, the said appeal was dismissed by the FAA. Being aggrieved, the appellant has preferred second appeal against Respondent No. 1, PIO and Respondent No. 2, FAA, before the Commission.
2. Notice was issued to the concerned parties pursuant to which Smt. Gaurita G. Kankonkar appeared on behalf of the appellant under authority letter. Advocate Sadanand Vaingankar appeared for the respondent PIO, whereas, the FAA was represented by Shri. Ramanand Naik, under letter of authority. Submission dated 13/06/2023 was received from the appellant. PIO filed reply on 23/05/2023, written arguments dated 11/09/2023 and affidavit on 15/09/2023. Reply was filed on behalf of the FAA on 28/06/2023.

3. Appellant submitted that, the reply of the PIO is vague and he has provided incomplete and misleading information. Being aggrieved, she had appeared before the FAA, however, her first appeal was decided in favour of the PIO. Thus, she has approached the Commission for complete information. Appellant further submitted that, with respect to point no. 2, 3, 4, 5 and 6, the PIO should have furnished complete information which is denied intentionally to her. Further, appellant prayed for the information on point no. 2 to 6 of her application.
4. PIO stated that, he had furnished the information on point no. 1 to 7 of appellant's application and in spite of rigorous search undertaken by him and his staff, information with respect to point nos. 8 to 12 could not be traced, hence, the same could not be furnished. PIO further stated that, as directed by the Commission, inspection was provided to the appellant, however, the appellant was not satisfied with the inspection. That, the PIO cannot be asked to furnish any information which is not available and /or not created in the records of the PIO.
5. FAA vide reply filed before the Commission on 28/06/2023 stated that, after hearing both the sides he had disposed the appeal as provided by the law and that he has discharged his duty as the first appellant authority.
6. Upon perusal of the records of the present matter, it is seen that, the appellant vide application dated 06/12/2022 had sought information on 12 points, pertaining to permission/ licence for repairs of her house within the jurisdiction of Village Panchayat Curca, Bambolim and Talaulim. It appears that her application / file for said licence was objected and rejected by the Village Panchayat, hence the aggrieved appellant had filed the application seeking information pertaining to the said decision.
7. Subsequent to the application, the PIO furnished information on point no. 1, 2 and 7 and the same was collected by the appellant. However, the appellant is not satisfied on the information on point no. 2. Also, the PIO stated that information on point no. 8 to 11 is not available in office records and information sought on point no. 3 to 6 and 12 does not come under the purview of Section 2 (f) of the Act.
8. The contention of the PIO regarding point no. 3 to 6 and 12 appears to be correct because the information sought under the

said point is not specific and clear as required under Section 6 (1) (b). During the present appeal proceeding PIO had suggested the appellant to do appropriate correction in the application, however, the suggestion was rejected by the representative of the appellant. Corrections would have brought clarity with respect to the requested information and would have helped the PIO to furnish the information, if available in his records. Thus, in the absence of clear and specific request for information by the appellant under point no. 3 to 6 and 12, the PIO cannot be directed to furnish any information on the above mentioned points.

9. Further, with respect to the contention of the appellant regarding information on point no. 2 and 8 to 11, the Commission directed the PIO to provide inspection of the relevant records. Accordingly, inspection was provided on 03/08/2023. Appellant, upon the said inspection contended that she was not provided the entire records, whereas, Advocate Sadanand Vaingankar, on behalf of the PIO stated that all available files were provided for inspection.
10. This being the case, the Commission directed the PIO to file affidavit in support of his contention. In compliance, Shri. Lency Dias Juliao, PIO filed an affidavit on 15/09/2023 stating that the entire information with regards to the application of the appellant, as available in his office, has been furnished by him and that nothing is pending in this regard.
11. The Commission observes that the PIO vide an affidavit has affirmed that he has furnished all available information. Since the above mentioned statements are made by the PIO by signing an affidavit, the Commission accepts the same and finds that the PIO has furnished the information as available. Going by the said affidavit the Commission cannot expect the PIO to furnish non-existing information or to create any such information. Needless to say that, in case at any time the statement in the said affidavit are found false, the person swearing it would be liable for action for perjury.
12. In the background of the above mentioned facts of the matter and findings of the Commission it is concluded that, with respect to the affidavit filed before the Commission, the PIO has furnished the information as available and that he cannot be directed to furnish the non available and not existing information, thus, the present matter is required to be disposed off.

13. Hence, the present appeal is disposed accordingly and the 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.