

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 244/2022/SIC

Julio Heredia,
H.No. 353,
Piedade Divar,
Tiswadi-Goa,
403403.

-----Appellant

v/s

1. Mamlatdar of Mormugao,
Mormugao, Salcete-Goa,
Pin Code No. 403802

2. The First Appellate Authority,
Dy. Collector of Mormugao,
Salcete-Goa, 403802.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 03/06/2022
PIO replied on	: Nil
First appeal filed on	: 15/07/2022
First Appellate Authority order passed on	: 13/09/2022
Second appeal received on	: 16/09/2022
Decided on	: 27/03/2023

ORDER

1. The second appeal filed under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') by the appellant, against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), came before the Commission on 16/09/2022.
2. The brief facts of this appeal, as contended by the appellant are that he had sought certain information from the PIO, upon not getting any reply within the stipulated period, he filed appeal before the FAA. The said appeal was not heard by the FAA. Being aggrieved, appellant preferred second appeal before the Commission.
3. Notice was issued to the concerned parties and the matter was taken up for hearing. Appellant appeared and pressed for the information, filed submission on 20/12/2022 and 09/03/2023. Shri. Severino Pereira, APIO appeared on behalf of the PIO, filed reply on 07/11/2022. Later, Shri. Ranjeet R. Salgaonkar, PIO appeared in person and filed additional reply dated 08/02/2023 and 01/03/2023.

Shri. Nilesh A. Salgaonkar, Awal Karkun appeared on behalf of the FAA and filed reply on 13/10/2022.

4. PIO stated that, the information requested by the appellant was sought from the Talathi of Chicalim Saza of Mormugao Taluka and it was reported by the Talathi that the concerned names were recorded in Survey no. 68/1 of Chicalim village, since the time of promulgation of Survey records, therefore, the information sought by the appellant is not available in the office records.
5. PIO further stated that, during the stipulated period of the application dated 03/06/2022 he was holding additional charge as the Mamlatdar of Mormugao /PIO and during the same period was designated as Returning Officer for Village Panchayat election, 2022, of Mormugao Taluka, hence, he was busy with the work of Village Panchayat election. Due to the over-burden and oversight he was not able to reply the appellant within the stipulated time.
6. Further, PIO submitted that, request has been made to the Police Inspector, Vasco Police Station for registering F.I.R. regarding missing file of Survey No. 68/1 of village Chicalim of Mormugao Taluka. PIO also contended that he has not denied the information, but he is unable to furnish the requested information since the same is missing from the office records and he has taken appropriate action by filing a police complaint.
7. FAA stated that, upon receipt of the first appeal, notice was issued to the appellant for hearing, however, the same was returned from the Department of Post. The appellant remained absent on two occasion, thus the appeal was disposed.
8. Appellant stated that, PIO wanted to avoid the disclosure of the desired information, therefore he is giving excuses to defend his inaction. Government authorities are required to meticulously maintain the records, however, in the present case if the requested information is not available in the records of the PIO, then the PIO has to be held responsible for missing of the relevant files and penalty needs to be imposed against him for not furnishing the information within the stipulated time.
9. Appellant further, requested the authority to direct the PIO to reconstruct the missing file from the concerned parties whose names appear in Survey No. 68/1 by asking them to produce documents relating to the said property.

10. Upon perusal it is seen that, the appellant vide application dated 03/06/2022 had sought information pertaining to the documents produced to PIO's office by some persons whose names were entered in Form I and XIV of Survey No. 68/1 of Chicalim village. Appellant received no reply from the PIO within the stipulated period. On the other side, it is seen that the PIO was holding additional charge and was burdened with the work of General Election of Village Panchayats. PIO sought the said information from the Talathi, however, was informed by the Talathi that the relevant documents are not available in the records.
11. With respect to the reply of the Talathi, the PIO should have informed the appellant regarding the status of the information which he failed to do. Similarly, PIO should have taken appropriate action immediately after knowing that the relevant documents were missing from the records. PIO vide letter dated 06/02/2023 filed a complaint before the Police Inspector of Vasco Police Station, with respect to the missing documents. PIO should have filed the said complaint much earlier, immediately after the reply of the Talathi, which he received on 20/10/2022.
12. In the background of the above-mentioned observations, the Commission finds that the PIO has failed on two occasions – One - to respond to the appellant within the stipulated period, and Two - to file police complaint immediately after knowing that the file was missing from the records. However, the Commission has considered the reply of the PIO wherein he has stated that he was holding additional charge as PIO and at the same time was designated as Returning Officer for Village Panchayat elections. It is seen that, the PIO was indeed busy and burdened with multiple responsibilities. Thus, though Section 7 (1) of the Act requires PIO to furnish the information or respond to the application within 30 days from the receipt of the same, the Commission is of the considered opinion that leniency may be shown to the PIO for his delayed response.
13. Since the concerned documents are missing from the records and PIO has filed police complaint, though after some delay it is upto the police to register FIR in order to investigate and fix responsibility into the missing documents. Hence, in such a situation, after knowing that the information is missing from the records and that the PIO has filed police complaint, PIO cannot be directed to furnish the information, which is not available in his records. The Commission notes that the PIO has filed a copy of his police complaint dated 06/02/2023, however, no copy of FIR has been brought on record by

him. Therefore, the PIO is required to file a copy of FIR before the Commission.

14. In the light of the above discussion, the Commission concludes that the information sought by the appellant vide application dated 03/06/2022 is not traceable in the records of the PIO, and the PIO has taken appropriate action of lodging a police complaint before the Police Inspector of Vasco Police Station. In such a situation, no relief can be granted to the appellant. However, FIR needs to be registered and copy of the same is required to be filed by the PIO.

15. Hence, the present appeal is disposed with the following order:-

- a) PIO is directed to file in the Registry of the Commission a copy of the FIR registered at Vasco Police Station, pertaining to missing of the information sought by the appellant vide application dated 03/06/2022, within 10 days from the receipt of this order.
- b) PIO is further directed to furnish copy of the said FIR to the appellant, within 10 days from the receipt of this order.
- c) All other prayer 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

