

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 248/2022/SIC

Nixon L. Furtado,
H.No. 51, Copelwaddo,
Sernabatim, Salcete Goa,
403101.

-----Appellant

v/s

The Public Information Officer,
O/o. The South Goa Planning Development Authority,
Osia Complex, 4th Floor,
Margao, Salcete-Goa,
403601.

-----Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 16/02/2022
PIO replied on	: 23/02/2022
First appeal filed on	: 01/07/2022
First Appellate Authority order passed on	: 29/08/2022
Second appeal received on	: 21/09/2022
Decided on	: 25/05/2023

ORDER

1. The second appeal filed by the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), against Respondent Public Information Officer (PIO), Office of the South Goa Planning Development Authority (SGPDA), Margao Goa, came before the Commission on 21/09/2022.
2. It is the contention of the appellant that he had sought inspection of a file with reference to the approval granted by the South Goa Planning & Development Authority (SGPDA) under Reference No. SGPDA/M/P/328/662/91-92 dated 19/11/1992. In reply, PIO provided wrong file for the inspection. The appellant further contends that, alongwith letter dated 29/03/2022 addressed to the Town & Country Planning (TCP) Department, PIO informed him that the said file was already transferred to the TCP Department. Later vide letter dated 06/06/2022 PIO informed the appellant that the said file was not found in SGPDA, hence the information cannot be furnished.
3. It is the contention of the appellant that, being aggrieved by the reply of the PIO he filed appeal before the FAA. However, PIO failed to comply with the directions issued by the FAA while disposing the first appeal hence appellant approached the Commission for relief.

4. The concerned parties were notified, pursuant to the notice, appellant appeared and prayed for the information and punishment to the PIO for not complying with Section 7 (1) of the Act. Shri. Nevil Furtado appeared on behalf of the appellant and on 19/04/2023 argued on behalf of the appellant. Shri. Rosario Paulo Gomes, PIO appeared alongwith Advocate Supriya Naik, filed Affidavit in Reply on 02/02/2023 and submission alongwith enclosures on 03/05/2023.
5. PIO stated that, the relevant file of which inspection has been sought by the appellant belongs to village Sernabatim, the village Sernabatim was removed from the jurisdiction of SGPDA in 2005. Thus, the said file was transferred to Town & Country Planning Department alongwith all such files pertaining to Sernabatim village, vide letter dated 05/01/2005. Hence, the file of which inspection has been sought by the appellant does not exist in the records of the PIO.
6. Shri. Nevil B. Furtado while arguing on behalf of the appellant stated that, the PIO has not taken sufficient efforts to trace the file. Initially, file pertaining to wrong person was provided for inspection and later PIO contended that the concerned file is not in his possession, hence PIO should come out clearly with respect to compliance of his request.
7. The Commission upon perusal of the reply and arguments directed PIO to carry out detail search of his records and apprise the Commission on the status of availability of the said file. PIO agreed to comply and later during the proceeding produced records to show that the relevant file is not available in his office. PIO brought to the notice of the Commission that all files pertaining to Sernabatim village were transferred vide letter dated 05/01/2005 to the TCP Department. PIO also stated that some more files pertaining to Sernabatim village, which were found in his records were subsequently transferred to the TCP Department. PIO has produced copies of such letters for the perusal of the Commission.
8. Pursuant to this exercise pertaining to Sernabatim village carried out by the PIO, the Commission finds that the concerned file No. SGPDA/M/P/328/662/91-92 Dated 19/11/1992 was once existed in the records of the PIO, however later in the year 2005 all files pertaining to Sernabatim village were transferred from SGPDA (respondent authority in the instant appeal) to TCP Department,

hence the file sought by the appellant has to be existing in the records of the TCP Department and not in the records of the SGPDA.

9. In the background of the facts and findings as mentioned above, the Commission concludes that the information sought by the appellant vide application dated 16/02/2022 does not exist in the records of the PIO. Thus no relief can be granted to the appellant in the instant matter.
10. In the light of above discussion, the present appeal is disposed as dismissed 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.