

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 26/2023/SIC

Mr. Premanand Kalekar,
R/o. H.No. 11/75/A, Quedicotto,
Cuncolim, Salcete-Goa 403701.

-----Appellant

v/s

The State Public Information Officer,
Office of the Mamlatdar of Salcete,
Margao, Salcete-Goa 403601.

-----Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 09/05/2022
PIO replied on	: 01/06/2022
First appeal filed on	: 10/06/2022
First Appellate Authority order passed on	: 29/07/2022
Second appeal received on	: 16/01/2023
Decided on	: 26/06/2023

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), had sought certified copies of certain documents pertaining to Case No. JM-III/Mund/Part/1/2000. Public Information Officer (PIO) informed the appellant that the concerned file is not available in the records. Appellant therefore, preferred appeal before the First Appellate Authority (FAA). FAA allowed the appeal and directed PIO to trace the file and furnish the information. It is the contention of the appellant that he has not received information inspite of FAA's direction. Being aggrieved, he appeared before the Commission by way of second appeal against Respondent PIO, Mamlatdar of Salcete.
2. Notice was issued, pursuant to which appellant appeared in person praying for the information. PIO was represented by Smt. Sharmila Sinari Kerkar, Shri. Rohan Paes and Shri. Vishwas Satardekar. Reply dated 01/06/2023 was filed on behalf of the PIO.
3. Appellant stated that, he has sought information pertaining to Case No. JM-III/Mund/Pur/1/2000, the said information should be available in the records of the PIO and he is mandated to furnish the same under the RTI Act. That, PIO has not furnished the information inspite of the direction from the FAA, thus the

appellant was constrained to approach the Commission for redressal of his grievance.

4. PIO submitted that, efforts were made to search the said file in the court of the Joint Mamlatdar –III, Salcete. The Joint Mamlatdar- III Salcete informed that the file is not available in his court. Further directions were given to all courts of Joint Mamlatdars of Salcete Taluka to trace the said file and all the courts informed that the file is not available. Also, information was received from the Deputy Collector & SDO Salcete that the Case No. JM-III/ Mund/Pur/1/2000 is not recorded in the court of Deputy Collector & SDO, Salcete for appeal. Hence, no such information is available.
5. Upon perusal of the records of the instant case, it is seen that the appellant is aggrieved because he was not furnished the information sought under the Act. PIO vide his reply has stated that the said file is not traceable in his records. PIO has further stated that, as per the information received from the Deputy Collector & SDO, the said file is not recorded in the court of Deputy Collector & SDO, Salcete. It is further seen that, Shri. Rohan Paes, Awal Karkun and Shri. Vishwas Satardekar, APIO, during the present proceeding had undertaken to carry out detail search of the records in order to trace the said file. Still during the hearing on 01/06/2023 they appeared and stated that they could not trace the file.
6. The Commission notes that, although the PIO alongwith Awal Karkun and APIO of his office have stated that the said file is not available in PIO's records, PIO has not produced any documents to substantiate his stand, nor PIO has produced details of the search undertaken by him and his subordinates. In such a situation the Commission holds that the PIO is required to file an affidavit mentioning the details of search and the status of the information as on date. Similarly, PIO can undertake the task of reconstruction of the said file, with the help of the appellant and the concerned parties.
7. In the background of the facts and findings of the Commission it is held that the file in Case No. JM-III/Mund/Pur/1/2000 is not traceable and the PIO cannot be directed to furnish the information. However, PIO is required to file an affidavit swearing that the said file is not available in his records.

8. In view of these conclusions, the present appeal is disposed with the following order:-

a) PIO is directed to file an affidavit before the Commission with details of search and the status of the information sought by the appellant vide application dated 01/06/2022, within 15 days from the receipt of this order.

b) PIO is directed to reconstruct the said file, with the help of the appellant and the concerned parties, within 03 months.

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.