

GOA STATE INFORMATION COMMISSION

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

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 276/2023/SIC

Diana Tavares,
Flat C-1, Shamiana Coop. Hsg. Society,
Comba, Margao-Goa 403601.

-----Appellant

v/s

1. The Public Information Officer-04/Dy.Town Planner,
Town & Country Planning Department (HQ),
2nd Floor, Dempo Towers,
Patto Plaza, Panaji-Goa 403001.

2. The First Appellate Authority,
The Senior Town Planner, (HQ),
Town & Country Planning Department,
2nd Floor, Dempo Towers,
Patto Plaza, Panaji-Goa 403001.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 29/05/2023
RTI application transferred on	: 31/05/2023
PIO replied on	: 19/06/2023
First appeal filed on	: 10/07/2023
First Appellate Authority order passed on	: 28/07/2023
Second appeal received on	: 07/08/2023
Decided on	: 30/11/2023

ORDER

1. Being aggrieved by the action of Respondent No. 1, Public Information Officer (PIO) of not furnishing the information and order passed by Respondent No. 2, First Appellate Authority (FAA), appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed second appeal against both the respondents, which came before the Commission on 07/08/2023.
2. The concerned parties were notified, pursuant to which Shri. Abhijit Prabhudesai appeared on behalf of the appellant under authority and prayed for the information. Shri. M.K.C. Srikanth, PIO appeared in person, filed reply dated 26/09/2023 and additional reply dated 20/11/2023.
3. PIO stated that, the requested information could not be furnished within the stipulated period since the concerned file was not in his custody as it was sent to the Government, in view of the instructions

received from the Government. PIO further stated that, upon receipt of the application he came to know that certain files including the files sought by the appellant were submitted by higher authority to the O.S.D. of Minister for Town and Country Planning. That, the PIO has requested the O.S.D. of the Minister to return the concerned files and the appellant will be furnished the requested information once the files are received from the O.S.D. of the Minister.

4. Upon perusal of the records, the Commission finds that, the information sought by the appellant was initially not furnished, however, the PIO had not denied the information. PIO had undertaken to furnish the information once the relevant files are received by him from the O.S.D. of the Minister for Town and Country Planning.
5. As undertaken, during the present appeal proceeding, the PIO vide additional reply dated 20/11/2023 stated that he had received the concerned files from the Government on 16/10/2023 and upon receipt of the same the appellant was informed to visit PIO's office for inspection. Accordingly, the appellant visited PIO's office on 17/11/2023 and the requested information was provided to him. The PIO further submitted that there was no any intention to deny the information and the same was furnished once the files were received by him.
6. Hence, it is seen that, the information sought by the appellant has been furnished by the PIO and the same has been received by the appellant. Thus, there is no further need of any intervention by the Commission.
7. Before closing, the Commission finds that the PIO could not furnish the information within the stipulated period since the relevant files were sent by his higher authority to the O.S.D. of the Minister for Town and County Planning. The Commission, from the records of the present matter has come across a note issued by the Minister for Town and Country Planning. The said note dated 18/05/2023 reads:-

NOTE

"This is with reference to several Right to Information (RTI's) that are filed in the department with regards to Town & Country Planning matters.

In view of the technicalities, the same needs to be legally examined and sent to the Government for approval, subsequent to which, the RTI related information can be released.

Chief Town Planner is requested to kindly take a note of the same and necessary instructions in this regard to be issued.”

8. Upon taking serious cognizance of the above mentioned note issued by the Minister for Town and Country Planning, the Commission expresses displeasure over the same. Such an unprecedented action has caused interference in the functioning of the PIO and the same has delayed furnishing of the information. However, the issue pertaining to the said note has been already decided by the Hon'ble High Court of Bombay at Goa Bench, the Commission refrains from making any further comments on the issue.
9. In view of the facts and findings as mentioned above, the instant 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.