

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. 318/2023/SIC

Swapnesh Sherlekar,
H. No. 284, Shivolkarwada,
Mulgao, Bicholim-Goa 403710.

-----Appellant

v/s

1. The Public Information Officer-06,
Town & Country Planning Department,
Dempo Towers, Patto, Panaji-Goa.

2. The First Appellate Authority,
Town & Country Planning Department,
Dempo Towers, Patto, Panaji-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 24/04/2023
PIO replied on	: Nil
First appeal filed on	: 07/06/2023
First Appellate Authority order passed on	: 03/07/2023
Second appeal received on	: 11/09/2023
Decided on	: 22/12/2023

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 11/09/2023.
2. The concerned parties were notified, pursuant to which, appellant appeared in person and prayed for the information and penal action against the PIO. Shri. Prakash P. Bhandodkar, PIO appeared in person, filed reply dated 01/11/2023.
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 PIO shall furnish the information once he gets possession of the files.

4. Upon perusal of the records, the Commission finds that, the information sought by the appellant was initially not furnished, however, the PIO was not found in denial mode, on the contrary undertook to furnish the information as soon as the files are received by him from the O.S.D. of Minister for Town and Country Planning.
5. As undertaken, PIO furnished the information during the present appeal proceeding. Similarly, appellant who was present on 06/12/2023, acknowledged receipt of the information, desired by him. PIO submitted that he never intended to deny the information and the same is furnished as soon as available in his records. With this, the Commission finds that the information sought by the appellant has been furnished by the PIO and the same has been received by the appellant.
6. Appellant upon receiving the information argued on 06/12/2023 for penal action under Section 20 of the Act, against the PIO for not responding to his application within the stipulated period of 30 days. The Commission observes that, the application was not replied by the PIO within the stipulated period, however, the PIO was always found to be willing to furnish the information once he gets possession of the relevant files and finally as undertaken, he furnished the information. Thus, there is no intentional delay or denial on the part of the PIO. Hence, subscribing to the ratio laid down by the Hon'ble High Court of Bombay at Goa bench in Writ Petition 704 of 2012 (Public Authority and others v/s Shri. Yeshwant Tolio Sawant) and Writ Petition 205/2007 (Shri A. A. Parulekar v/s Goa State Information Commission), the Commission concludes that there is no need of invoking Section 20 of the Act against the PIO in the present matter.
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 Country 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.