

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Appeal No. 328/2022/SIC**

Mr. Amresh Vasudev Naik,  
H. No. 528, Belwada, Poriem,  
Sattari Goa 403505.

-----Appellant

**v/s**

1. Public Information Officer/ Awal Karkun,  
The Office of Deputy Collector & SDM of Sattari,  
Valpoi Goa 403506.

2. First Appellate Authority,  
Deputy Collector & SDM of Sattari,  
Valpoi Goa 403506.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 17/02/2022
PIO replied on	: Nil
First appeal filed on	: 18/04/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 08/12/2022
Decided on	: 24/07/2023

**ORDER**

1. Appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), has filed this second appeal against Respondent No. 1, Public Information Officer (PIO), Awal Karkun, Office of Deputy Collector & SDM of Sattari and Respondent No. 2, First Appellate Authority (FAA), Deputy Collector & SDM of Sattari, which came before the Commission on 08/12/2022.
2. It is the contention of the appellant that, he had sought information on two points. Being aggrieved by no response from the PIO, within the stipulated period he filed first appeal before the FAA. The said appeal was not decided by the FAA within the mandatory period. It is the contention of the appellant that, the FAA vide letter dated 05/07/2022 requested him to inspect the file and collect the required documents. Appellant further contends that since the information furnished was incomplete, he has appeared before the Commission by way of second appeal.
3. Notice was issued to the concerned parties, pursuant to which Shri. Gaurish Kamat Mhamai, the present PIO appeared and filed replies dated 28/02/2023 and 16/03/2023. Appellant appeared in

person praying for the remaining information and filed arguments dated 12/04/2023.

4. PIO stated that, the appellant has suppressed the fact that the PIO had kept the information ready on 22/08/2022, which was collected by the appellant only on 21/10/2022. PIO further stated that the appellant has admitted that Respondent No. 2, FAA vide letter dated 05/07/2022 notified the appellant to inspect the file and also acknowledged that Respondent No. 2 had furnished the information. That, there is no iota or whisper in the appeal as to how the information provided is incomplete.
5. Appellant vide written arguments contended that, he did not receive any information or reply from the PIO within the stipulated period, as also, the first appeal was not decided by the FAA within the mandatory period. That the respondent no. 2 finally responded much after the stipulated period, after the first appeal was filed, moreover incomplete information was furnished. Further PIO did not furnish the remaining information, nor FAA decided the first appeal.
6. Upon perusal of the records of the instant matter it is seen that, the appellant vide application dated 17/02/2022 had sought for following information:-
  - A. Subject matter: Certified copy of applications, attached documents and copy of action taken/ compliance report.
  - B. The period to which the information requires : 2020-2021
  - C. Information Description:-
    1. With reference to application made before this office heading application for help and assistance dated 19/03/2020 followed by application for submission of additional documents dated 07/12/2020 issue me issue me certified copy of both applications along with copies of attached documents. Also issue me copy of action taken report by this office on said applications.
    2. With reference to memorandum No. 38/ 164/2018 /MAG. MISc/1637 issued by Office of the District Magistrate, North Goa Panaji Goa, to this office, issue me certified copy of said memorandum along with copy of review petition attached to said memorandum. Also issue me certified copy of compliance report by this office on said memorandum.
7. It is noted that the said application was not responded till the expiry of the stipulated period of 30 days .The said act of the PIO

under Section 7 (2) amounts to deemed refusal of the request and such an act is punishable under Section 20 of the Act. Appellant after waiting for the expiry of the stipulated period filed first appeal dated 18/04/2022, before the office of the District Magistrate, North Goa Panaji and Shri. Gopal Parsekar, Additional Collector-I, North Goa District, Panaji vide letter dated 17/05/2022 referred the said appeal to the appropriate First Appellate Authority, i.e. Deputy Collector & SDM, Sattari.

8. This being the case, Respondent No. 2, FAA in the present matter received the first appeal on 17/05/2022, meaning, under Section 19 (6) of the Act the said FAA was required to decide the appeal within maximum of 45 days. Contrary to this provision the appeal was not decided. FAA, instead of deciding the appeal, vide letter dated 05/07/2022, without referring to the application and / or the appeal, requested the appellant to inspect the records and collect the information. Further, it is seen from the records that, the appellant on 21/10/2022 collected the information from the office of Deputy Collector & SDM, Sattari, after paying charges of Rs. 148/-.
9. Appellant during the proceeding contended that the information furnished is incomplete. He stated that the authority has not furnished him part information on point no. 1, i.e. copy of action taken report by Deputy Collector & SDM, Valpoi on his application dated 19/03/2020 and part information on point no. 2, i.e. certified copy of compliance report by the authority on Memorandum no. 38/164/2018/MAG.MISC/1637. Shri. Gaurish Kamat Mhamai, the present PIO on 27/04/2023 undertook to furnish the remaining information, however, no information was furnished to the appellant, nor any say was filed before the Commission, inspite of opportunity provided to the PIO.
10. In the background of the facts as mentioned above and with the observations therein, the Commission holds that the PIO had not furnished any information within the stipulated period to the appellant and later only part information was furnished. Thus, the PIO has evaded the disclosure of remaining information, and the PIO is liable for action under Section 20 of the Act. Similarly, the FAA is guilty of not disposing the first appeal as provided under Section 19 (6) of the Act. However, the Act does not provide for any punishment to the FAA for not acting within the provisions of law. Nevertheless, the FAA is warned hereby to hear and dispose appeals received under Section 19 (1) of the Act, strictly as

provided under the law and non hearing of the first appeal hereafter, will be treated as de-reliction of duty.

11. In the light of above discussion, the present appeal is disposed with the following order:-
- a) The present PIO is directed to furnish the remaining information i.e. copy of action taken report and copy of compliance report, as sought vide application dated 17/02/2022 within 10 days from the receipt of this order, free of cost.
  - b) Issue show cause notice to the PIO, Awal Karkun, Office of Deputy Collector & SDM of Sattari, and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) and /or 20 (2) of the Act, should not be imposed against him/ her.
  - c) In case the PIO is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgment before the Commission on or before the next date of hearing, alongwith the present address of the then PIO.
  - d) The then PIO is hereby directed to remain present before the Commission on **28/08/2023 at 10.30 a.m.** alongwith the reply to the showcase notice.
  - e) The Registry is directed to initiate penalty proceeding against the then PIO.

Proceeding of the present appeal 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.

