

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. 38/2023/SIC

Shri. Narayan Datta Naik,
H. No. 278/1 (3),
Savorfond, Sancoale,
403710.

-----Appellant

v/s

1. Ramesh Parsekar,
P.I.O. of MPDA, Vasco da Gama, Goa.

2. Member Secretary,
Mormugao Planning & Development Authority,
Vasco da-Gama, Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 19/09/2022
PIO replied on	: Nil
First appeal filed on	: 21/10/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 27/01/2023
Decided on	: 28/11/2023

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 No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), came before the Commission on 27/01/2023.
2. The brief facts of this case as contended by the appellant are that, he had sought information on nine points, however, the PIO furnished no information. Thus, he filed first appeal before FAA. The said appeal was not decided within the mandatory period. Being aggrieved by the inaction of the PIO and FAA, he filed second appeal against both the respondents, before the Commission.
3. Notice was issued to the concerned parties pursuant to which, appellant appeared in person and filed rejoinder dated 06/07/2023. Advocate J. Miranda, Advocate C. Afonso and Advocate M. Kamat appeared on behalf of Shri. Ramesh Parsekar, PIO, filed reply on 18/05/2023, rejoinder on 07/09/2023 and affidavit in reply on 25/10/2023. FAA was represented by Advocate D. Borkar and

Advocate A. Yallappanar, on 13/06/2023 reply was filed on behalf of the FAA.

4. Appellant contended that, the PIO has not furnished all the requested documents even after direction from the Commission, on the contrary, the PIO is playing hide and seek by furnishing part of the requested information and also by providing some documents which are not sought by the appellant.
5. Upon perusal of the records of the instant matter it is seen that, the PIO had furnished part information, after direction issued by the Commission. However, the complete information was not furnished. Subsequently, on 25/10/2023, PIO filed affidavit in reply.
6. PIO stated vide the above mentioned affidavit that, he has provided all relevant documents as available in the records, to the appellant. Appellant under point no. 2 had requested for details of bank account with respect to I.D.S.M.T. Scheme, however, there is no separate bank account maintained by the authority for the I.D.S.M.T Scheme, hence, no such details are available. Further, copies of cash book maintained by the authority towards the expenditure incurred by the authority, as sought by the appellant under point no. 3 of his application has been furnished to him. Also, the information on point no. 1,4,5,6 and 7 has been furnished as available in the records and that no records are available as regards point no. 8 and 9 of the application. Thus, the PIO requests for disposal of the matter.
7. The Commission notes that the PIO, though did not furnish any information within the stipulated period of 30 days, appeared before the Commission and undertook to comply with the direction of the Commission. Accordingly, the PIO during the present proceeding furnished the information as available in the records, also filed affidavit swearing and affirming that the information as available has been furnished to the appellant.
8. The Commission observes that the PIO vide an affidavit has affirmed that he has furnished all available information. Since the above mentioned statements are made by the PIO by signing an affidavit, the Commission accepts the same and finds that the PIO has furnished the information as available. Going by the said affidavit the Commission cannot expect the PIO to furnish non-existing information or to create any such information. Needless to say that, in case at any time the statements in the said affidavit are found false, the person swearing it would be liable for action for perjury.

9. In the background of the above mentioned facts of the matter and findings of the Commission it is concluded that, with respect to the affidavit filed before the Commission, the PIO has furnished the information as available and that he cannot be directed to furnish the non available and not existing information, thus, the present matter is required to be disposed off.
10. Hence, the present 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.