

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 54/2023/SIC

Mr. Visente Desousa,
H. No. 71, Varchawada,
Arambol, Pernem-Goa 403524.

-----Appellant

v/s

1. The Public Information Officer,
Office of the Zonal Agriculture Officer,
Pernem-Goa 403512.

2. The First Appellate Authority,
Director of Agriculture,
Tonca, Caranzalem-Goa 403002.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 28/10/2022
PIO replied on	: 01/11/2022
First appeal filed on	: 15/11/2022
First Appellate Authority order passed on	: 06/12/2022
Second appeal received on	: 30/01/2023
Decided on	: 24/04/2023

ORDER

1. The brief facts of this appeal are that the appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought certain information. It is the contention of the appellant that Respondent No. 1, Public Information Officer (PIO) refused to furnish the information, hence he filed appeal before Respondent No. 2, First Appellate Authority (FAA). The said appeal was dismissed by the FAA vide order dated 06/12/2022. Being aggrieved by the said order, appellant has appeared before the Commission by way of second appeal.
2. Notices were issued to the concerned parties and the matter was taken up for hearing. Shri. Prakash Raut, PIO and Shri. Nevil Alphonso, FAA appeared in person and filed reply. Appellant appeared alongwith Advocate Prasad Shahapurkar.
3. PIO stated vide reply dated 27/03/2023 that, he had furnished the information as available, within the stipulated period and informed the appellant that his office cannot generate information report from Krishi Card Software based on survey number.

4. FAA submitted vide reply dated 09/03/2023 that, he disposed the appeal upon hearing both the sides and held that the information furnished by the PIO is correct and there is no justification in the grievance of the appellant on the same. FAA further stated that opportunity was given to the appellant, accordingly he remained present and was heard before passing the order.
5. Advocate Prasad Shahapurkar appearing on behalf of the appellant, argued by stating that the appellant, being aggrieved by the reply of the PIO had filed first appeal and during the hearing before the FAA had requested for time to take assistance of lawyer. However, he was not granted opportunity to engage the lawyer and the order was passed by the FAA dismissing the appeal, thereby, denying the appellant natural justice.
6. Upon perusal of the records of the present matter it is seen that, the appellant was basically aggrieved by the denial of the information by the PIO, thus filed appeal before the FAA. Goa State Information Commission (Appeal Procedure) Rules 2006, Rule 7 (2) allows the appellant to be present in person or through his duly authorised representative. Meaning, appellant, if wishes to take assistance of any other citizen including the lawyer, has to be given opportunity to engage such services/ help in order to ensure the implementation of the principal of natural justice. Whereas, in the present matter appellant feels aggrieved since he was not granted time to engage a lawyer. This being the case, the Commission is of the opinion that the FAA should have allowed the appellant to engage a lawyer by granting time.
7. Section 19 (6) of the Act requires FAA to dispose the appeal within 30 days or within maximum of 45 days from the receipt of the appeal. The first appeal was filed before the FAA on 15/11/2022 and was disposed vide order dated 06/12/2022, meaning FAA had sufficient time to grant an opportunity to the appellant to engage a lawyer.
8. Advocate Prasad Shahapurkar, during the proceeding on 19/04/2023 requested the Commission to remand the present matter to the FAA to enable the appellant to argue his side. The Commission finds that the said request is justified and such an opportunity will allow the FAA to hear the appellant before arriving at any decision.
9. The Right to Information Act, 2005, enacted by the Government of India is a beneficial act, brought in order to promote transparency

and accountability in the working of every public authority. Keeping in mind aim and objective of the Act, the Commission finds that the present matter is required to be remanded to the FAA for fresh hearing which will allow the appellant to register his say through his assistant before the FAA.

10. In the light of above discussion, the present appeal is disposed with the following order:-

- a) The present matter is remanded to the First Appellate Authority (FAA), Director of Agriculture, Tonca, Caranzalem-Goa, and the FAA is directed to decide the same on merit, as provided by the law, without insisting on the period of limitation.
- b) The appellant, if aggrieved by the order of the FAA, shall have the right to file second appeal under Section 19 (3) of the Act, within the period of limitation.

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.