

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 74/2023/SIC

Mr. Jawaharlal T. Shetye,
H.N. 35/A Ward No. 11,
Khorlim, Mapusa – Goa,
403507.

-----Appellant

v/s

1. The Public Information Officer,
Rajendra Bagkar (Head Clerk),
Mapusa Municipal Council,
Mapusa, Bardez-Goa 403507.

2. The First Appellate Authority,
Amitesh Shirvoikar (Chief Officer),
Mapusa Municipal Council,
Mapusa-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 12/12/2022
PIO replied on	: Nil
First appeal filed on	: 16/01/2023
First Appellate Authority order passed on	: 10/02/2023
Second appeal received on	: 03/03/2023
Decided on	: 19/06/2023

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), had sought certain information from Respondent No. 1, Public Information Officer (PIO). Being aggrieved by non furnishing of the information by the PIO inspite of the direction from Respondent No. 2, First Appellate Authority (FAA), appellant has approached the Commission against both the respondents i.e. PIO and FAA, by way of second appeal.
2. It is the contention of the appellant that, his application was not responded by the PIO within the stipulated period. Later, PIO did not comply with the direction of his higher authority, FAA, thereby committing the act of disobedience and behaved in a manner unbecoming of a Government / Public servant. Appellant further contended that alongwith the information he prays for penal action under Section 20 of the Act against the PIO and compensation.

3. Notice was issued to the concerned parties and the matter was taken up for hearing. Pursuant to the notice, appellant appeared in person praying for complete information and penal action against the PIO. Shri. Rajendra Bagkar, PIO appeared in person and undertook to furnish the information to the appellant. During the hearing on 15/05/2023 Shri. Rajendra Bagkar, PIO requested for one more opportunity to furnish the information and file compliance report. PIO was directed by the Commission to file compliance report on or before 26/05/2023.
4. Upon perusal of the records of the instant appeal it is seen that, though the PIO was given final opportunity to furnish the information to the appellant and file compliance report on or before 26/05/2023, no such report was filed by the PIO. There is absolutely no response from the PIO inspite of opportunities provided by the Commission.
5. Appellant vide application dated 12/12/2022 had sought information with regards to his complaints filed before the public authority i.e. Mapusa Municipal Council against various illegal constructions as mentioned in the application. Since the PIO did not reply within the stipulated period, the said action of the PIO under Section 7 (2) of the Act amounts to deemed refusal of the request. Aggrieved by the refusal, appellant preferred first appeal before the FAA. FAA vide order dated 10/02/2023 issued in the presence of the PIO, directed him to furnish the information within 15 days.
6. It appears from the records that, since there was no response from the PIO inspite of the clear direction from the FAA, the appellant was compelled to appear before the Commission. PIO though attended the proceeding did not comply with his own undertaking of furnishing the information and filing compliance report.
7. Thus, PIO had opportunity on three occasions to furnish information to the appellant, first- within the stipulated period of 30 days, second – after the direction of the FAA and third- during the present appeal proceeding. However, on all three occasion he failed to furnish any information. Hence, the PIO is held guilty under Section 7 (1) of the Act. Such irresponsible and stubborn conduct of the PIO cannot be accepted and such an officer is liable for punishment under Section 20 of the Act.
8. In the background of the findings as mentioned above, the present appeal is disposed with the following order:-

- a) PIO is directed to furnish information sought by the appellant vide application dated 12/12/2022, within 15 days from the receipt of this order, free of cost.
- b) Issue show cause notice to Shri. Rajendra Bagkar, PIO, Mapusa Municipal Council and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) and 20 (2) of the Act, should not be imposed against him.
- c) In case the PIO is transferred, the present PIO shall serve this order alongwith the notice to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith the present address of the PIO.
- d) Shri. Rajendra Bagkar, PIO is hereby directed to remain present before the Commission on 17/07/2023 at 10.30 a.m. alongwith the reply to the showcause notice.
- e) The Registry is directed to initiate penalty proceeding against the PIO, Shri. Rajendra Bagkar.

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

