

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 76/2023/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	: 05/12/2022
PIO replied on	: Nil
First appeal filed on	: 06/01/2023
First Appellate Authority order passed on	: 08/02/2023
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.
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, however, no such report was filed by the PIO. Later, on 07/06/2023 a submission alongwith enclosures was received in the entry registry. PIO vide the said submission stated that information on point no. A-1, B-1, B-2, B-3 (a), (b), (c), (d) has been furnished to the appellant through Registered AD and that the copy of the same is enclosed for the perusal of the Commission.
5. Upon perusal of the said submission the Commission notes that, the PIO has furnished information on point no. B-1 and b-3 (c) and with respect to information on point no. A-1 and B-2 has stated that "The file is not traceable as the same is misplaced at the time of shifting the documents from old Municipality to this office." Similarly, with respect to information on point no. B-3 (a), (b), (d) it is stated that, "Information sought is not available in the office records."
6. Appellant under point no. A-1 had requested for following information:-
 - (A) Enclosed herewith the photo copy of Trade Licence No. T/0/5679 issued to Farid Khan for your ready perusal and kindly furnish to me the following information as under:-
 1. Furnish certified copies of the entire file documents pertaining to Mr. Farid Khan in respect of his application for the issue of Trade Licence to conduct the business of general store at Ghateshwar Nagar, Khorlim, Mapusa-Goa bearing No. 11/44/ILL.

Appellant under point no. B-2 had requested for following information:-

- (B) Enclosed herewith the photo copy the Document of transgression dated 17/05/2022 in respect of the illegal house constructed by one Mr. Vallabh Atchut Lanjekar, near Sateri Devi Temple, Khorlim, Mapusa-Goa for your ready perusal and kindly furnish to me the following information as under:-
 2. Furnish the present upto date status report of your work stoppage order bearing Ref. No. MMC/ ENGG /ILL/ 4804/ 3432/ 2020 dated 26/06/2020 issued to Mr. Vallabh Atchut Lanjekar.

Appellant under point no. 3 (a), (b), (d) had requested for following information:-

3. Furnish certified copies of all the new construction licences and the repair / renovation licences issued by your office in the names of the following persons and their family members as under:-

(a) Mr. Vallabh Atchut Lanjekar, near Sateri Temple, Khorlim, Mapusa-Goa.

(b) Mr. Gautam Pednekar, Advocate, near Severna Garden, Xelpem, Mapusa-Goa.

(d) Shri. Audhut Lanjekar c/o. Kasarwadda, Khorlim, Mapusa-Goa.

7. It is seen that the above mentioned information sought by the appellant pertains to trade licence, work stoppage order, construction licence and repairs / renovation licence issued by Mapusa Municipal Council, public authority in the present matter. Since the information was generated by the authority, the same is required to be available in the office of the PIO and he is mandated to furnish the same, unless it is proved by the PIO that the requested information is not available.

8. PIO has not filed any document to substantiate his contention regarding information on point no. A-1, B-2, B-3 (a), (b), (d). Hence, he cannot be absolved from the responsibility of furnishing the same. Appellant though after delay, has received the information sought vide application dated 05/12/2022, except point no. A-1, B-2, B-3 (a), (b) (d). Thus, directions needs to be issued to the PIO to furnish information on point no. A-1, B-2, B-3 (a), (b), (d) of the application as mentioned above.

9. Before closing, it is noted that the PIO had not responded to the application within the stipulated period of 30 days. Also, he failed to comply with the direction of the FAA. However, the Commission takes lenient view in the present matter considering the efforts taken by the PIO to furnish information on point no. B-1 and B-3 (c) and directs him to search the records and furnish the remaining information.

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

a) PIO is directed to furnish information on point no. A-1, B-2, B-3 (a), (b), (d) sought by the appellant vide application dated

05/12/2022, within 10 days from receipt of this order, free of cost.

b) PIO is directed hereafter to respond to the applications received under Section 6 (1) of the Act, within the stipulated period, as provided under Section 7 (1) of the Act.

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