

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 80/2023/SIC

Shri. Jawaharlal T. Shetye,
H. No. 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-Goa 403507.

2. The First Appellate Authority,
Mr. Amitesh Shirvoikar, (Chief Officer)
Mapusa Municipal Council,
Mapusa-Goa 403507.

3. Shri. Vinay Agarwadekar / Deemed PIO,
Mapusa Municipal Council,
Mapusa-Goa 403507.

4. Shri. Subha S. Amonkar/ Deemed PIO,
Mapusa Municipal Council,
Mapusa-Goa 403507.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 06/12/2022
PIO replied on	: Nil
First appeal filed on	: 10/01/2023
First Appellate Authority order passed on	: 02/02/2023
Second appeal received on	: 03/03/2023
Decided on	: 25/09/2023

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. 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 no compliance report was filed by the PIO till 26/05/2023. However, 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.1 to 5 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. Further, appellant, vide submission received in the entry registry on 12/06/2023 stated that he is not satisfied with the information furnished by the PIO. Similarly, vide another application the appellant requested the Commission to add Shri. Vinay Agarwadekar and Shri. Subha Amonkar (both Deemed PIOs) as respondents in the present matter. Appellant stated that, FAA had directed these Deemed PIOs to furnish the information through PIO and that they have failed to comply. Also, that the PIO Shri. Bagkar under Section 5 (4) of the Act had sought assistance of Shri. Vinay Agarwadekar and Shri. Subha Amonkar, thus both these Deemed PIOs need to be impleaded as respondents for not providing the information.
6. The said application was allowed and notice dated 20/06/2023 was issued to Shri. Vinay Agarwadekar, Deemed PIO and Shri. Subha Amonkar, Deemed PIO. Pursuant to the notice, Shri. Agarwadekar and Shri. Amonkar appeared before the Commission and filed reply dated 14/08/2023.
7. Shri. Vinay Agarwadekar, Deemed PIO submitted that, he was allotted work in the Taxation Section and the application dated 06/12/2022 was not marked to him by the PIO. However, he states that the concerned dealing hand had moved a note and furnished the information at point no. 1 to 3 of the application and information on point no. 4 and 5 was also furnished by the concerned section vide office letter dated 06/04/2023. Shri. Agarwadekar further submitted that, the delay in providing the information was not intentional thus may be condoned.

8. Shri. Subha Amonkar, Deemed PIO stated that, the appellant had sought information on five points and point no. 1 to 3 pertained to Technical Section, whereas, information on point no. 4 and 5 pertained to Administration Section. That, he works in Technical Section and information pertaining to his section has been furnished to the satisfaction of the appellant. Shri. Amonkar submitted that as the delay in furnishing the information was not intentional and there was no any attempt to cause hardship to the appellant, the present proceeding may be disposed by condoning the delay.
9. After perusing the replies of Deemed PIOs and PIO alongwith the records of the matter, the Commission notes that, the PIO initially did not respond to the application and later during the proceeding of the first appeal took stand that he had transferred the application under Section 5 (4) of the Act to the Deemed PIOs. Accordingly, FAA issued direction to the Deemed PIOs to furnish the information. However, the PIO has not produced any evidence to show that the application was transferred to the Deemed PIOs. Hence, the Commission holds that the Deemed PIOs need not be held liable for any action under the Act.
10. Further, it is seen that, PIO vide submission received in the entry registry on 07/06/2023 has furnished the information as available on point no. 1 to 5 of the application. It is noted that with respect to point no. 1, 2 and 5, PIO has furnished the information, whereas, with respect to information on point no. 3, PIO has stated that no such records are maintained by the Council, and with respect to information on point no. 4, PIO has stated that such scheme is not implemented by the council.
11. It is seen that, the appellant under point no. 3 had requested for information with regards to existence of authorised Kiosks/Stalls/Gaddas, in the jurisdiction of Mapusa Municipal Council for erecting the same in the private land and the land belonging to the Comunidade of Mapusa, Khorlim and Cunchelim and which are renewed till date and no such information, according to PIO is maintained be the authority. Hence, the Commission finds that the PIO cannot be directed to furnish any information which is not maintained by the authority. Thus, no directions are required to be issued to the PIO on this point. Secondly, appellant under point no. 4 had requested for information regarding implementation of Group Insurance Scheme for safai karmachari workers of Mapusa Municipal Council. The Commission holds that no such information exists in the records of the PIO since the said scheme is not implemented by the

authority/ council, as per the reply of the PIO. Thus, the PIO cannot be directed to furnish information on point no. 4.

12. In the light of the above discussion, the Commission concludes that, the information sought by the appellant vide application dated 06/12/2022 has been furnished by the PIO, as available in his records and no more intervention of the Commission is required in the instant matter.
13. Thus, 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.