

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 228/2023/SIC

Mahesh Yashwant Kashid,
At Post Umbraj, Taluka Karad,
District Satara, Maharashtra,
415109

-----Appellant

v/s

1. First Appellate Authority/ Block Development Officer,
Office of BDO, Valpoi,
Sattari Goa 403506.

2. Public Information Officer/ Secretary,
Nagargao Gram Panchayat, Valpoi,
Sattari-Goa 403506.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 12/09/2022
PIO replied on	: 23/01/2023
First appeal filed on	: 06/02/2023
First Appellate Authority order passed on	: 17/03/2023
Second appeal received on	: 30/06/2023
Decided on	: 22/12/2023

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, First Appellate Authority (FAA) and Respondent No. 2, Public Information Officer (PIO), which came before the Commission on 30/06/2023.
2. It is the contention of the appellant that, he was furnished only part information by the PIO. Further, he filed first appeal, however, was deprived of his right to appear for hearing. That, he received no communication from the FAA with respect to his first appeal. Being aggrieved by the action of the PIO and the FAA, he has preferred second appeal before the Commission.
3. Pursuant to the notice, Respondent No. 1, FAA, Shri. Suryajirao Rane appeared in person and filed reply dated 17/08/2023. Shri. Vinayak Gaonkar, Respondent No. 2, PIO appeared in person and filed reply on 04/09/2023. Advocate Arjun F. Naik appeared on behalf of the appellant and argued on orally.

4. PIO stated that, he has furnished the information as available in his office, to the appellant. Village Panchayat Nagargao has maintained house registration records as per the prescribed format, i.e. Form No. 7, as per the Goa Panchayat Raj Act, 1994. Hence, the available information was furnished and the remaining information is not available in his office records.
5. FAA stated that, upon receipt of the first appeal, he has issued notice to both sides for hearing on 23/02/2023, however the appellant did not appear. More opportunities were provided to the appellant on 03/03/2023, 10/03/2023 and 17/03/2023 to be present and register his say, yet the appellant failed to appear. Despite giving sufficient time, the appellant did not show any interest in the matter. Hence, the first appeal was disposed accordingly.
6. Appellant submitted that, he had not received any information within the stipulated period and information received vide letter dated 23/01/2023 was incomplete. Further, he filed first appeal. However, notice issued by the FAA for hearing on 23/02/2023 was received by him by ordinary post, on the same day, thus he could not attend the proceeding and later, he received no communication from the FAA. With this, the appellant contended that, he was deprived of his right to present his case.
7. Advocate Arjun F. Naik, while arguing on behalf of the appellant, stated that, firstly, the appellant did not receive any information, then only part information was received. Further, the FAA was required to hear the appellant to ensure delivery of natural justice, however, appellant's request was not considered. Thus, he requests for appropriate relief to the appellant.
8. Upon perusal of the records of the present matter, it is seen that, the appellant had sought information on three points. His application was not responded by the PIO within the stipulated period. Nevertheless, PIO, after substantial delay, furnished part information. Being aggrieved, the appellant preferred first appeal.
9. This being the case, the Commission observes that, since the PIO had failed to deliver as required under Section 7 (1) of the Act, it was the responsibility of the FAA to hear both the sides and pass an appropriate order to ensure transparent flow of information, which is the main object of the Act.

10. Considering that the appellant resides outside Goa, FAA should have sent the notice for hearing by Registered AD Post and giving the appellant sufficient time to appear in person or to file his say via any other way. Appellant, who resides in Satara District of Maharashtra State, received the notice on the day of the hearing, making him impossible to attend the proceeding on the same day, in the office of the FAA at Valpoi Goa. Though, the FAA provided multiple hearings, the appellant received no response to his correspondence sent to the FAA. Thus, the appellant could not attend the proceeding and in the process was denied natural justice.
11. Similarly, Rule 7 (2) of Goa State Information Commission (Appeal Procedure) Rules, 2006 allows the appellant to opt not to be present and in the absence of the appellant, the authority is required to decide the matter on merit. Meaning, the FAA cannot conclude that the appellant has no interest in the matter, if remains absent.
12. Here in the instant matter, the Commission finds that the appellant was deprived of opportunity of his fair right to appear or to file his say via any other means. Thus, in the interest of natural justice, an opportunity to the appellant has to be afforded, to register his say before the FAA and an appropriate order needs to be passed to dispose the present appeal, which would provide such an opportunity.
13. In the light of the above discussion, the present appeal is disposed with the following order:-
 - a) The appeal is remanded to the FAA, Block Development Officer, Sattari, Valpoi – Goa and the FAA is directed to hear and decide the appeal as provided by law, without insisting on period of limitation.
 - b) The appellant, if aggrieved by the order of the FAA, shall have right to file second appeal under Section 19 (3) of the Act, before the Commission, within the period of limitation.

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.