

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 62/2023/SIC

Smt. Priyanka P. Vaingankar,
Ex. Deputy Director,
Apna Ghar, Mercedes,
H.No. 1341/A, “Aditri Niwas”
St. Barbara, St. Cruz,
Tiswadi, North-Goa.

-----Appellant

v/s

1. The P.I.O/ Head Clerk,
Directorate of Women & Child Development,
Panaji-Goa.

2. Smt. Dipali Naik,
First Appellate Authority,
Director of Women & Child Development,
Old Education Building,
Panaji-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 01/06/2022
PIO replied on	: 04/07/2022
First appeal filed on	: 14/07/2022
First Appellate Authority order passed on	: 18/01/2023
Second appeal received on	: 10/02/2023
Decided on	: 20/11/2023

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the “Act”), had sought information on two points. It is the contention of the appellant that PIO failed to furnish the information within the stipulated period, hence, she filed first appeal before the First Appellate Authority, which was not decided within the mandatory period of 45 days.
2. It is the contention of the appellant that, being aggrieved, under Section 19 (3) of the Act she filed second appeal against Respondent No. 1, Public Information Officer (PIO), Directorate of Women and Child Development and Respondent No. 2, First Appellate Authority (FAA), Directorate of Women and Child Development, which came before the Commission on 10/02/2023.
3. Notice was issued to the concerned parties pursuant to which Smt. Shambhavi Gaonkar, PIO appeared in person and filed reply dated

24/04/2023. Later, on 18/10/2023 PIO appeared alongwith Advocate K. L. Bhagat and filed affidavit in reply. Smt. Deepali Naik, FAA appeared and filed reply dated 24/04/2023. Appellant filed rejoinder dated 14/06/2023 to the replies of PIO and FAA. Later, appellant filed affidavit dated 19/08/2023.

4. Smt. Shambhavi Gaonkar, PIO stated that, order dated 18/01/2023 passed by the FAA was received by her on 09/03/2023 with direction to furnish the information. Accordingly, she checked the record only to find that no such documents are traceable. The said fact was brought to the notice of the FAA vide letter dated 10/03/2023. The PIO further stated that, the information sought is really not traceable, hence, she is unable to furnish the same.
5. Smt. Deepali Naik, FAA stated that, the first appeal received from the appellant was heard and disposed vide order dated 18/01/2023 with direction to the PIO to furnish the information to the appellant within 15 days.
6. Appellant stated that, being aggrieved by denial of her request by the PIO, she had filed first appeal. However, the FAA issued several notices for hearing and finally disposed the appeal much after the expiry of mandatory period, yet, the order was not provided to her. The said conduct of the respondents was deliberate and amounts to harassment. Thus, she is seeking penal action against the PIO as well as FAA, alongwith compensation of Rs. 15,000/- from the public authority.
7. Upon perusal of the appeal memo and other records of the present case including all submissions from both the sides, the Commission notes that the appellant had requested for information on two points and the PIO in reply informed the appellant that both the points on which information was sought do not come under the purview of the Act and hence, the request was rejected. Subsequently, the appellant filed first appeal.
8. When the FAA receives first appeal under Section 19 (1) of the Act, the authority under Section 19 (6) of the Act is required to dispose off the same within maximum of 45 days from the date of filing. In the present matter the first appeal was filed on 14/07/2022, meaning the FAA was required to decide the matter before 30/08/2022. The FAA issued at least five notices, some of those were issued after the expiry of mandatory period and finally on 18/01/2023 disposed the

appeal with direction to the PIO to furnish the information within 15 days.

9. Irony of the matter does not end there. It is seen from the records that though the FAA passed oral order on 18/01/2023, copy of the order was sent to PIO on 09/03/2023. Meaning, the first appeal was disposed by the FAA after more than 180 days and the PIO in the same office received the order after another 22 days. More ironically, the appellant never received the copy of FAA's order.
10. The Commission had observed similar conduct of the said FAA, while disposing Appeal No. 120/2023/SIC, decided vide order dated 31/07/2023, and had directed the Chief Secretary to seek explanation from Smt. Deepali Naik for not deciding the first appeal in conformity with Section 19 (6) of the Act. This being the case, the Commission issues stern warning to the FAA to abide by the provisions of the Act hereafter.
11. Looking into the conduct of the PIO, it is noted that the PIO initially took a stand that the request for information does not come under the purview of the Act. However, later searched the records only to find that the requested information is not available in her records. Accordingly, the PIO vide affidavit dated 10/10/2023, filed before the Commission on 18/10/2023 stated that the information on point no. 1 and 2 of the application dated 01/06/2022 is not available in the records maintained by her department.
12. Relying on the affidavit filed by the PIO, the Commission holds that the information requested by the appellant is not available with the PIO. Thus, she cannot be directed to furnish the information, not available in her records, nor can she be held guilty of not complying with Section 7 (1) of the Act. Needless to say that, in case at any time the statement in the said affidavit is found false, the person swearing it would be liable for action for perjury.
13. The appellant, vide affidavit dated 19/08/2023, filed before the Commission on 21/08/2023 has prayed for compensation of Rs. 15000/-. It is the contention of the appellant that she was subjected to physical and mental suffering, embarrassment and humiliation, had to bear medical expenses due to the circumstances created by the respondents. Section 19 (8) (b) of the Act authorises the Commission to direct the public authority to compensate the complainant for any loss or other detriment suffered. However, supporting documents enclosed by the appellant alongwith the

affidavit nowhere recognises the contentions of the appellant made while seeking the compensation. In the absence of certified statement from the concerned medical practitioner, clearly stating that the appellant has suffered physically and / or mentally due to the present matter, the Commission is unable to subscribe to the contention of the appellant. Hence, prayer for compensation is not granted.

14. The appellant had sought information with respect to action taken report, letter, note on her two representations dated 13/05/2022 and 25/05/2022, addressed to the Director, who is the FAA in the present matter. However, with respect to the affidavit filed by the PIO, the Commission holds that no such information is available in the records, hence, the PIO is neither guilty of contravention of Section 7 (1) of the Act, nor any direction can be issued to the PIO to furnish the information which is not available.
15. In view of the above discussion and findings of the Commission, nothing remains to be decided and the present appeal needs to be disposed without grant of any relief to the appellant.
16. Thus, the instant appeal is disposed as dismissed 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.

