

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patta Plaza, Panaji, Goa – 403 001

Tel: 0832 2437208, 2437908 E-mail: spio-gsic.goa@nic.in Website: www.gsic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 02/2023/SIC

Shri. John Nazareth,
H.No 71, Villa Nazareth,
Gauchem Bhatt,
Opp. The Goa State Cooperative Bank Ltd.,
Merces-Goa

-----Appellant

V/s

1. The First Appellate Authority (FAA),
Director of Mines and Geology,
Panaji-Goa
2. The Public Information Officer(PIO),
Directorate of Mines and Geology,
Panaji-Goa

-----Respondents

Relevant dates emerging from appeal:

| | |
|---|--------------|
| RTI application filed on | : 21/06/2023 |
| PIO replied on | : 06/07/2022 |
| First appeal filed on | : 08/08/2022 |
| First Appellate Authority order passed on | : 04/10/2022 |
| Second appeal filed on | : 03/01/2023 |
| Decided on | : 31/07/2023 |

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), came before the Commission on 03/01/2023.

2. It is the contention of the appellant that he had sought from PIO information on two points and being aggrieved by the reply of the PIO he filed first appeal before the FAA. However, the said appeal was not decided within the mandatory period, hence he filed second appeal before the Commission, praying for complete information and penal action against the PIO.
3. Notice was issued pursuant to which appellant appeared and filed application dated 02/03/2023 and submission dated 23/05/2023. Smt. Roshell Fernandes, FAA appeared and filed submission dated 02/03/2023. Shri. Sudhir Mandrekar, PIO appeared, filed reply dated 21/03/2023 and on 15/06/2023 filed another reply alongwith enclosures.
4. Appellant submitted that he is aggrieved by the action of the PIO and also the FAA. Information sought was clear and specific, yet PIO requested him to undertake inspection of the records which he never desired. Further, during the present proceeding as per the advise of the Commission he visited PIO's office and inspected the relevant files only to find that the authority had taken no action with respect to his complaint against the concerned company. Thus, he wants the respondent to confirm these observations or provide action taken report as sought vide application dated 21/06/2022.

5. FAA stated that, there was considerable delay by the office staff to place the matter before her, for which she has issued oral warning to the concerned staff. That, she apologizes for the delay caused in hearing and disposing the first appeal as the delay was neither deliberate nor with malafide intention.

6. PIO stated that, he had issued reply within the stipulated period to the appellant to visit his office and inspect the files to obtain the desired information. However, appellant refused to visit and filed appeal before the FAA. Later on 21/02/2023 the appellant visited PIO's office and inspected the records, thereafter has not sought for any further information. PIO further stated that he has not denied the information, however information can be provided as available and cannot be created or compiled to suit the need of the appellant.

7. Upon perusal it is seen that, the appellant had sought for information with respect to the action taken report on his two complaints regarding alleged illegal mining activities. PIO while in reply had requested the appellant to inspect the records and collect the information, which was not accepted by the appellant, stating that information sought is specific and clear.

8. It appears from the records that, the appellant was expecting appropriate action from the authority against the mining companies, mentioned in the application, such as issuance of show cause notice etc. If such an action is not initiated by the authority, then no such information will be available in the records. Accordingly, the appellant, when inspected the documents during the present proceeding, found that action like conducting inspection, issuing showcause notice was not initiated by the authority, hence no such information existed in PIO's records. This being the case, the Commission has no jurisdiction to direct the authority to initiate any action with respect to the Complaints filed by the appellant against two companies on alleged illegal mining activities. As no such information existed in the records, PIO cannot be directed to furnish any information which never existed in the records.

9. During the hearing on 15/06/2023, PIO submitted copy of two letters dated 13/06/2023 addressed to the appellant and stated that, further action taken by the authority in view of complaints by the appellant has been communicated to him. Thus, the available information has been furnished and the same has been acknowledged by the appellant.

10. The Commission notes that, the appellant had requested for certified copies of file notings and action taken report on his two complaints on alleged illegal mining activities by two companies. Certified copies of file notings were furnished to the appellant earlier and now, information pertaining to action taken has been furnished by the PIO, and the same has been acknowledged by the appellant.

11. In view of the above mentioned facts the Commission finds that, the information has been furnished to the appellant, thus no more intervention of this authority is required in the instant matter.

12. Hence, 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