

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Appeal No. 214/2022/SIC**

Shri. Leslie Steven De Souza,  
House No. E/8, 158,  
Opposite Court,  
Altinho Mapusa Bardez, Goa 403507

-----Appellant

**V/s**

1. The Public Information Officer,  
Mapusa Municipal Council,  
Mapusa-Goa 403507.
2. The First Appellate Authority,  
The Chief Officer,  
Mapusa Municipal Council,  
Mapusa-Goa.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 02/05/2022
PIO replied on	: Nil
First appeal filed on	: 26/05/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 27/07/2022
Decided on	: 27/02/2023

**ORDER**

1. The second appeal filed under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') by the appellant, against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), came before the Commission on 27/07/2022.
2. The brief facts of this appeal, as contended by the appellant are that he had sought certain information from the PIO and upon not getting any reply within the stipulated period, filed appeal before the FAA. The said appeal was not heard by the FAA. Being aggrieved, appellant preferred second appeal before the Commission.
3. Notice was issued to the concerned parties and the matter was taken up for hearing. Appellant appeared and pressed for the information and filed submission on 14/12/2022. Shri. Prashant

Narvekar, PIO, Technical Section, after initial non presence, appeared on 8/11/2022 and filed reply alongwith enclosures of information. Smt. Pallavi Dicholker appeared on behalf of FAA however, filed no reply.

4. Appellant stated that, he had sought information on five points, the request for information was specific and clear, the application was acknowledged as received by the office of the PIO, yet he received no reply and no information was furnished within the stipulated period. Appellant further contended that, he needed the said information urgently to place before the Hon'ble High Court of Bombay at Goa as well as before the court of the District Judge. The information was requested within 48 hours as it concerned to the life and liberty of the appellant.
5. Appellant further stated that, being aggrieved by no response from the PIO, he filed appeal before the FAA, but to his dismay the appeal was neither heard, nor any order was passed on the appeal, thus he contends that there is concerted effort by PIO and FAA of Mapusa Municipal Council to deprive the appellant of the requested information.
6. PIO stated that, after receiving the application dated 02/05/2022 assistance under section 5(4) of the Act was sought from the concerned dealing hand, APIO and the information as received from the APIO was furnished to the appellant vide reply dated 07/11/2022. PIO has made every attempt to provide the information to the appellant even though the nature of the application is not clear and the same is worded in confusing language. PIO further contended that the appellant after filing of the application seems to be asking same questions again and again which creates confusion. Also, the appellant is trying to give directions to the PIO, such directions does not stand in the Act.
7. Appellant, after receiving the information from the PIO during the present proceeding on 22/11/2022, delivered his arguments on 14/12/2022. Appellant argued stating that, the PIO has violated provisions of the Act by not furnishing the information within the stipulated period, when he needed the information urgently to defend his matter in the Hon'ble High Court and the District Court. Further, FAA supported PIO's stand by not hearing the first appeal.

That, the appellant was compelled to face similar treatment when he had sought information vide application dated 18/04/2022, wherein, the application was not replied, first appeal was not decided and the appellant was subjected to file second appeal (Appeal No. 160/2022/SIC) and information was furnished by the PIO during the proceeding of the second appeal before the Commission. PIO and FAA have shown same modus operandi in the present matter by defying the provisions of the Act, hence he presses for penal action against the Respondents.

8. Upon perusal of the records and submissions of both the sides the Commission observes that the appellant vide application dated 02/05/2022 had sought information on five points, i.e. a to e. Appellant had requested PIO to furnish the information within 48 hours as according to him the said information concerned to his life and liberty. PIO did not respond to the request within 48 hours, nor furnished any information within 30 days. This failure of the PIO to respond within the stipulated period amounts to deemed refusal of the request, under section 7(2) of the Act.
9. Next, aggrieved appellant under section 19(1) of the Act filed appeal before the FAA on 26/05/2022. Section 19(6) mandates FAA to hear and dispose the appeal within 30 days or within extended period of 45 days by recording reasons for delay, in writing. Such a hearing on first appeal gives an opportunity to PIO under section 19(5) to justify the denial of information. Hence, by not deciding the First appeal the FAA has caused inconvenience to the appellant as well as deprived PIO of an opportunity to justify his action.
10. It is the contention of the PIO that under section 5(4) of the Act he had sought assistance of the dealing hand/APIO. However, PIO has not brought any documents on record to substantiate the said contention, hence the same cannot be accepted and the Commission finds that it is the PIO and not the APIO, failed to furnish the information.
11. Another contention of the PIO is that the application is not clear and it is worded in confusing language and that the appellant after filing the application is asking the same questions again and again. Here, the Commission reminds the PIO of section 5(3) of the Act. The said section requires PIO to deal with the request

from applicant and render reasonable assistance to him in order to facilitate furnishing of the information. The Commission finds that the PIO did not respond to the application, nor attempted to assist the appellant, if the application was not clear.

12. The Hon'ble High Court of Delhi, in J.P. Agrawal v/s Union of India & Ors, W.P. (c) 7232/2009, has held in para 7:-

*"7. Section 4 of the Act obliges every public authority to publish inter alia the particulars of facilities available to citizens for obtaining information and the names, designations and other particulars of the PIOs. Section 5 requires the public authorities to designate PIO to provide information to persons requesting for information under the Act. Such PIOs, under Section 5(2) of the Act are to receive applications for information and under Section 5(3) of the Act are to deal with request from persons seeking information and render reasonable assistance to the information seekers. The Act having required the PIOs to "deal with" the request for information and to "render reasonable assistance" to the information seekers, cannot be said to have intended the PIOs to be merely Post Offices as the petitioner would contend. The expression "deal with", in Karen Lambert Vs. London Borough of Southwark (2003) EWHC 2121 (Admin) was held to include everything right from receipt of the application till the issue of decision thereon. Under Section 6(1) and 7(1) of the RTI Act, it is the PIO to whom the application is submitted and it is he who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information, the PIO is expected to recommend a remedial action to be taken. The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.*

13. The above judgment elaborates the duties and responsibilities of the PIO and throws light on the aspect of how to deal with the application of a citizen. Contrary to these provisions, PIO in the instant matter has failed to comply with section 5(3) and 5(4) of the Act and is held guilty of contravention of section

7(1) of the Act. The failure of the PIO to furnish the information, as requested, has caused panic in the mind of the appellant, since he needed the information urgently and non furnishing of the information within the stipulated period of 30 days has caused inconvenience to the appellant, compelling him to approach the appellate authority.

14. It is seen that the PIO finally during the present proceeding vide letter dated 07/11/2022, furnished some information, the same was available in his office and could have been furnished within 48 hours, as had requested by the appellant. It is also noted that the appellant has termed the received information as incomplete and the PIO has not clarified on the said contention of the appellant. Hence the Commission concludes that the PIO had failed to furnish the information within the stipulated period and later, during the present proceeding whatever information has been furnished is not complete. The said action of the PIO amounts to contravention of section 7(1) of the Act and the said action as well as arrogant and irresponsible conduct of the PIO needs to be punished under section 20 of the Act. However, before imposing any penalty, the Commission shall give an opportunity to the PIO to register his say.
  
15. In the light of above discussion the present appeal is disposed with the following order:-
  - a) Present PIO is directed to furnish the remaining information sought by the appellant vide application dated 02/05/2022, within 15 days from the receipt of the order, free of cost.
  
  - b) Issue notice to Shri. Prashant Narvekar, PIO, Mapusa Municipal Council, and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) of the Act, should not be imposed against him.
  
  - c) In case the PIO to whom the notice is issued is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith the present address of the then PIO.

d) Shri. Prashant Narvekar, PIO is hereby directed to remain present before the Commission on 03/04/2023 at 10.30 a.m. alongwith the reply to the showcause notice.

e) The Registry is directed to initiate penalty proceeding against the PIO.

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