

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 274/2022/SIC

Mr. Ligorio Pereira,
Through Power of Attorney,
Mr. Joao Pereira,
H. No. 40, Acsona,
Utorda-Majorda,
Salcete-Goa.

-----Appellant

v/s

1. The Public Information Officer,
Office of the Mamlatdar,
Salcete, Margao-Goa.

2. The First Appellate Authority,
Dy. Collector & SDO, Margao,
Salcete, Margao-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 11/07/2022
PIO replied on	: Nil
First appeal filed on	: 17/08/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 20/10/2022
Decided on	: 17/04/2023

ORDER

1. The brief facts of this appeal are that the appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought certain information. Upon not receiving any reply from Respondent No. 1, Public Information Officer (PIO), within the stipulated period appellant filed appeal before Respondent No. 2, First Appellate Authority (FAA). Being aggrieved by no response from both the respondents, appellant under Section 19 (3) of the Act preferred second appeal, which came before the Commission on 20/10/2022.
2. The concerned parties were notified, pursuant to the notice Shri. Joao Pereira appeared on behalf of the appellant and on 12/01/2023 filed copy of Power of Attorney. Smt. Sharmila Sinai Kerkar and Shri. Rohan Paes (APIO) appeared on behalf of the PIO, Mamlatdar of Salcete and undertook to furnish the information as available in the records.

3. During the proceeding on 07/02/2023, Shri. Rohan Paes, on behalf of the PIO stated that the information could not be furnished within the stipulated period, as there was no clarity on certain points. Now as per the direction of the Commission, he undertakes to furnish the information as available in the office of the PIO.
4. Accordingly, on 14/03/2023 Shri. Rohan Paes furnished the information to the appellant, sought by him vide application dated 11/07/2022. Shri. Joao Pereira, on behalf of the appellant, received the information and acknowledged the same.
5. However, Shri. Joao Pereira argued stating that the PIO has furnished the information after much delay. PIO had not replied the application within the stipulated period of 30 days, hence he presses for penal action against the PIO.
6. Upon perusal, it is seen that, the appellant had sought information on 15 points, pertaining to site inspection supposedly carried out by the office of the PIO, regarding CRZ violations. PIO failed to respond within the stipulated period, however, the Commission finds that explanation submitted on behalf of the PIO is satisfactory. More so, during the proceeding the PIO was willing to abide by the directions of the Commission. It is also noted that the PIO did not get any opportunity to justify his action before the FAA since the first appeal was not heard by the authority.
7. On this background, information as available was furnished to the appellant by Shri. Rohan Paes, APIO and the same was acknowledged by the appellant, yet the appellant pressed for penal action against the PIO for causing delay in furnishing the information. However, the Commission finds that though there was a delay in furnishing the information, no malafide can be attributed to the intention of the PIO, as he has finally willingly furnished the information during the present proceeding.
8. The Hon'ble High Court of Bombay at Goa, in Writ Petition No. 704 of 2012, in Public Authority, office of the Chief Engineer and Others v/s. Shri. Yeshwant Tolio Sawant, has held in Para 6:-

"6. However, in the present case, the learned Chief Information Commissioner has himself noted that the delay was marginal and further the PIO cannot be blamed for the same. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any

case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."

9. Subscribing to the ratio laid down by the Hon'ble High Court as mentioned above and considering the findings in the present matter, the Commission concludes that the information eligible under Section 2 (f) of the Act has been furnished to the appellant, though after marginal delay and the conduct of the PIO does not deserve invoking of Section 20 of the Act, hence, there is no need to penalise the PIO.
10. However, the PIO needs to be censured for the delay in furnishing the information. Information which was furnished after the disposal of the first appeal was available in the records of the PIO and he could have provided the same to the appellant within the stipulated period of 30 days. Similarly, FAA deserves to be excoriated for not disposing the first appeal as provided under Section 19 (6) of the Act. The said provision mandates FAA to dispose the appeal within 30 days or within maximum of 45 days by recording reasons in writing for the delay.
11. In the background of the facts as mentioned above, since the information has been furnished, no any relief is required to be granted to the appellant. Thus, the appeal is disposed with the following order:-
 - a) PIO hereafter is directed to respond to the applications received under Section 6 (1) of the Act, strictly as provided by the law.
 - b) FAA hereafter is directed to hear and dispose the appeals received under Section 19 (1) of the Act, strictly as provided under Section 19 (6) of the Act.

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