

**GOA STATE INFORMATION COMMISSION**

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

**Appeal No. 58/2023/SIC**

Luel Fernandes,  
136, Cotta, Chandor,  
Salcete Goa 403714

-----Appellant

**v/s**

Public Information Officer,  
The Mamlatdar,  
Mathany Saldanha Building,  
Fatorda, Margao Salcete-Goa.

-----Respondent

**Relevant dates emerging from appeal:**

RTI application filed on	: 09/09/2022
PIO replied on	: Nil
First appeal filed on	: 03/11/2022
First Appellate Authority order passed on	: 09/12/2022
Second appeal received on	: 07/02/2023
Decided on	: 12/06/2023

**ORDER**

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought inspection and certified copies of documents pertaining to Tenancy case proceedings in case no. TNC/JM-II/35/93 dated 18<sup>th</sup> Nov 1997 and TNC PURCHASE /jm ii/CAV/ 652/1998. Being aggrieved by non furnishing of the information, he preferred appeal before the FAA. FAA directed the PIO to furnish the information within fifteen days. Yet, the order was not complied by the PIO, hence, appellant appeared before the Commission by way of second appeal.
2. Pursuant to the notice, appellant appeared in person and prayed for complete and correct information and filed submission dated 11/05/2023. Smt. Sharmila Sinai Kerkar, APIO and Shri. Vishwas Satardekar, APIO appeared on behalf of the PIO Shri. Satardekar on 21/04/2023 filed reply of Shri. Rohan Paes, Awal Karkun /Present PIO, Office of the Mamlatdar of Salcete Taluka.
3. Appellant stated that, the PIO failed to reply to his application and during one of the visit after expiry of the stipulated period, upon inquiry, wrong and incomplete information was furnished from the office of the PIO. Thus, the PIO has furnished wrong information pertaining to first point, i.e. (TNC/JM/II/35/93 dated 18<sup>th</sup> Nov 1997) and no information to second point, (i.e. TNC PURCHASE /jmii/CAV/

652/1998). Appellant further submitted that, the action of the PIO has caused financial and mental agony to him.

4. Shri. Rohan Paes, Awal Karkun and the present PIO stated that, with reference to the first point of the application, appellant had submitted only the case number and his office has accordingly issued the available information. The contention of the appellant that wrong information was provided is incorrect and the appellant may be directed to file fresh application before the PIO.

Shri. Rohan Paes, the present PIO further stated that, vide note dated 25/11/2022 Joint Mamlatdar II Salcete has submitted that case no. TNC PURCHASE /jm ii/CAV/ 652/1998, is not available in the court record / inventory of Joint Mamlatdar II. Hence, information on second point cannot be furnished.

5. Appellant vide submission dated 11/05/2023 stated that, it is clear from the order dated 09/12/2022 passed by the FAA that the PIO had failed to furnish the information. More seriously, PIO has not complied with the FAA's direction. Further, although the PIO contends that the appellant has received the information after payment of the requisite charge, the appellant states that he was never asked to pay any charges towards the information, as no reply was sent by the PIO. It was confirmed during the proceeding of first appeal that the receipt for the payment was not drawn by the appellant.

6. The Commission has perused the records of the present matter. After careful perusal, it is seen that, the appellant had sought for inspection and certified copies of two tenancy cases- Case No. TNC/JM/II/35/93 dated 18<sup>th</sup> November 1997 (hereinafter referred to as 'first case') and Case No. TNC PURCHASE /jm ii/CAV/ 652/1998 (hereinafter referred to as 'second case'). It appears from the records that the said application was not replied within the stipulated period, which amounted to contravention of Section 7 (1) of the Act and the failure of the PIO to respond within the stipulated period is termed under Section 7 (2) of the Act as deemed refusal of the request.

7. It is noted that the application dated 9/09/2022 was filed by the appellant before the PIO, Mamlatdar of Salcete and the first appeal was filed before the FAA, Deputy Collector/ SDO, Salcete against the PIO, Mamlatdar of Salcete. The appeal was heard by the FAA, Deputy Collector / SDO, Salcete. FAA vide order dated 09/12/2022 directed

PIO, Mamlatdar of Salcete to provide the information to the appellant free of cost within fifteen days.

FAA, while passing the said order mentioned, "it is observed that PIO, Mamlatdar of Salcete is not serious about his duties while performing as PIO. The PIO has failed to comply with the provisions of sub Section (1) of the Section 7 of the Act."

8. The Commission in all seriousness notes the remarks of the FAA regarding functioning of the Mamlatdar of Salcete. Further, it is observed that the PIO did not take any action to ensure compliance of the order of the FAA, rather the PIO, Mamlatdar of Salcete has given no consideration to the said order and remarks of the FAA. Such an arrogant approach of the PIO is completely deplorable and cannot be pardoned with respect to the aims and objectives of the Act.
9. It is seen that the PIO, Mamlatdar of Salcete did not appear, nor filed any reply to justify his action, before the Commission during the present proceeding. Proceeding were attended by the APIOs and reply was filed by Shri. Rohan Paes, Awal Karkun and present PIO. The said reply states that vide note dated 25/11/2022 from Joint Mamlatdar II, Salcete second case is not available in the record/inventory. However, neither copy of the said note nor copy of inventory was produced before the Commission. In the absence of any such evidence PIO's contention cannot be accepted. On the contrary, the Commission finds that, the PIO has taken no action and made no efforts to search the records and furnish the information.
10. With these findings, the Commission holds that the PIO, Mamlatdar of Salcete has miserably failed to furnish the information to the appellant, the said failure amounts to contravention of Section 7 (1) of the Act and the said conduct of the PIO, Mamlatdar of Salcete is liable for punishment under Section 20 (1) of the Act. PIO is required to introspect with respect to his action and conduct which is not at all in tune with the spirit and provisions of the Act. PIO has to furnish the appellant complete and correct information on the first case as well as on the second case. It has been established that he has furnished wrong information on first case and no information on the second case. PIO is reminded of the fact that mere statement saying the information is not available is not sufficient, he is required to substantiate such statement with appropriate evidence on record.
11. In the light of above discussion, the present appeal is disposed with the following order:-

- a) Present PIO, Office of the Mamlatdar is directed to furnish information sought by the appellant vide application dated 09/09/2022, within 15 days from the receipt of this order, free of cost.
- b) Issue show cause notice to the PIO, Mamlatdar of Salcete , and the PIO is further directed to showcause as to why penalty under Section 20 (1) of the Act should not be imposed against him.
- c) The PIO, Mamlatdar of Salcete is hereby directed to remain present before the Commission on 10/7/2023 at 10.30 a.m. alongwith reply to showcause notice.
- d) The Registry is directed to initiate penalty proceeding.

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.