

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 31/2022/SIC

Shri. Deepak Gracias,
R/o Karishma Apartments,
'C' Block Near Cine Vishant,
Aquem, Margao-Goa
403601.

-----Complainant

v/s

1. The Public Information Officer,
Directorate of Municipal Administration,
Dempo Towers, Panaji-Goa.

2. First Appellate Authority,
Directorate of Municipal Administration,
Dempo Towers, Panaji-Goa.

-----Opponents

Relevant dates emerging from the proceeding:

RTI application filed on	: 27/07/2021
PIO replied on	: 13/09/2021
First appeal filed on	: 31/08/2021
First Appellate authority order passed on	: Nil
Second Appeal filed on	: 07/10/2021
Second Appeal decided on	: 22/07/2022
Complaint received on	: 22/09/2022
Decided on	: 30/01/2023

ORDER

1. Aggrieved by non compliance of the order dated 22/07/2022 passed by the Commission, disposing Appeal No. 248/2021/SIC, complainant under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed this complaint against Opponent No. 1, Public Information Officer (PIO) and Opponent No. 2, First Appellate Authority (FAA), which came before the Commission on 22/09/2022.
2. The brief facts of the present matter, as contended by the complainant are that, he was not furnished complete information by the PIO and later, FAA did not hear the first appeal, hence, he filed second appeal before the Commission. After hearing both the sides the appeal was disposed with direction to the PIO to furnish the requested information within 20 days. It is the contention of the complainant that he received incomplete information, which amounts to non compliance of the order passed by the Commission, thus, he has appeared before the Commission by way of complaint under Section 18 (1) of the Act.

3. The concerned parties were notified, pursuant to which complainant appeared in person. In spite of two notices (dated 06/10/2022 and 29/11/2022) served by the Commission, opponent PIO and FAA neither appeared before the Commission, nor filed any reply or submission, nor were represented by any official representative.
4. Complainant stated that, vide application dated 27/07/2021 he had sought information on six points. Neither PIO furnished any information, nor FAA heard the first appeal. Later, upon the direction of the Commission PIO furnished information, however, incomplete information was furnished and despite of the order of the Commission, he has not received information on point no. 5 and 6 from the PIO.
5. Complainant further stated that, vide letter dated 29/08/2022 he informed the PIO that information on point no. 5 and 6 is not received by him. Yet, PIO failed to provide the remaining information. That, PIO is intentionally denying him the remaining information on point no. 5 and 6.
6. Complainant submitted that, the PIO has acted in an arbitrary manner by denying the complete information, hence, he is guilty of mis-conduct, disobedience and de-reliction in duty. By stating this, complainant pressed for penal action against the PIO.
7. Upon perusal it is seen that, the Commission had served notice dated 06/10/2022 to PIO and FAA for appearance and reply on 31/10/2022, None appeared for opponents. Another notice dated 29/11/2022 was issued to PIO and FAA for appearance and reply on 20/12/2022, yet opponents did not appear before the Commission.
8. The Commission, while disposing Appeal No. 248/2021/SIC, vide order dated 22/07/2022 had directed PIO to furnish complete information to the complainant within 20 days. Similarly, PIO and FAA were directed to deal with applications received under Section 6 (1) of the Act and appeals received under Section 19 (1) of the Act respectively, in accordance with the provisions of the Act. It is seen from the complaint memo that the complainant waited for the expiry of 20 days, period provided by the Commission to furnish the information, and vide letter dated 29/08/2022 informed PIO that he has not received information on point no. 5 and 6 of his application.
9. PIO was mandated to comply with the direction of the Commission and furnish information on point no. 1 to 6 to the complainant. It

appears from the records that PIO did not furnish information on point no. 5 and 6 and has not bothered to appear before the Commission to explain his action. PIO, at first instance had violated Section 7 (1) of the Act by not furnishing information, later, failed to comply with the direction of the Commission and now, during the proceeding of the present complaint has failed to appear and justify his action. Such an arrogant and deplorable conduct is not expected from the Government officer of senior rank designated under the Act as PIO.

10. Thus, the Commission is of the firm opinion that the PIO is guilty of non furnishing of the complete information and non compliance of the direction of the Commission. PIO, with such an adamant and non- cooperative nature deserves to be punished under Section 20 (1) and /or 20 (2) of the Act. However, before imposing such penalty, an opportunity needs to be given to the PIO to explain his action.
11. In the light of above discussion, the present complaint is disposed with the following order:-
 - a) The complaint is allowed.
 - b) Issue show cause notice to Shri. Clen Madeira, PIO, Additional Director, Department of Urban Development and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) and /or 20 (2) of the Act should not be imposed against him.
 - c) In case the PIO is transferred, the present PIO shall serve this notice along with the order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith present address of the then PIO.
 - d) Shri. Clen Madeira, PIO/ the then PIO is hereby directed to remain present before the Commission on **06/03/2023 at 10.30 a.m.** alongwith reply to the show cause notice.
 - e) The Registry is directed to initiate penalty proceeding against Shri. Clen Madeira, PIO.

Proceeding of the present complaint 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