

GOA STATE INFORMATION COMMISSION

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

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

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No. 41/2023

In

Appeal No.90/2023/SIC

Shri. Joaquim Nicolau Geromico Fernandes,
H.No. 1389, Sinaibaga, Curtorim,
Salcete Goa 403709.

-----Appellant

v/s

1. The Public Information Officer,
Dy. Town Planner/ Public Information Officer-07,
Town & Country Planning Department (HQ),
Dempo Towers, Patto-Plaza,
Panaji-Goa 403001.

2. The First Appellate Authority,
Senior Town Planner,
Town & Country Planning Department (HQ),
Dempo Towers, Patto-Plaza,
Panaji-Goa 403001.

-----Respondents

Relevant dates emerging from penalty proceeding:

Order passed in Appeal No. 90/2023/SIC	: 24/07/2023
Show cause notice issued to PIO	: 14/08/2023
Beginning of penalty proceeding	: 28/08/2023
Decided on	: 20/11/2023

ORDER

1. The penalty proceeding against the Opponent Public Information Officer (PIO), Smt. Roseann Diniz, Deputy Town Planner, Town and Country Planning Department has been initiated vide showcase notice dated 14/08/2023, issued under Section 20(1) and 20(2) of the Right to Information Act, 2005 (hereinafter referred to as the “Act”), for not complying with the direction of the Commission.
2. The Commission has discussed complete details of this case in the order dated 24/07/2023. Nevertheless, the facts are reiterated in brief in order to appraise the matter in its proper perspective.
3. The appellant vide application dated 10/10/2022 had sought information with respect to change of zoning of certain properties. Aggrieved by the action of the PIO of not furnishing the information,

appellant filed first appeal before the First Appellate Authority (FAA). Further, being aggrieved by the denial of the information and disposal of the first appeal, the appellant preferred second appeal before the Commission.

4. The Commission after due proceeding disposed the appeal vide order dated 24/07/2023. It was held that the PIO has failed to furnish the information and the said failure amounts to contravention of Section 7 (1) of the Act. Hence, show cause notice was issued against the PIO directing the PIO to submit written reply stating as to why penalty under Section 20 (1) and 20 (2) of the Act should not be imposed against the PIO.
5. The penalty proceeding was initiated against the PIO. Smt. Roseann Diniz, Deputy Town Planner appeared on 28/08/2023 and filed reply. Subsequently, Shri. Prakash Bhandodkar, the present PIO appeared and filed reply dated 03/10/2023 alongwith enclosures of information. Appellant appeared in person and filed submission on 28/08/2023.
6. Smt. Roseann Diniz, the then PIO against whom the show cause notice has been issued, stated that she was on maternity leave from 01/02/2023 to 30/07/2023 and further child care leave from 01/08/2023 to 29/12/2023. That, since she was on leave, she did not receive any official correspondence related to the appeal proceeding. Thus, she requests the authority to consider the above mentioned facts.
7. Appellant vide submission received on 28/08/2023 submitted that he has still not received any information. Appellant further stated that, he had sought information pertaining to the documentation of the change of zone of his property bearing survey no. 116/2 and 116/3 of Village Curtorim which was in Settlement zone in RP 2001 and which is changed to Paddy fields in RP 2021.
8. Upon perusal of the available records of this matter it is seen that, the information sought was clear and the then PIO was required to furnish the same within the stipulated period. Appellant neither received information, nor relief from the FAA and thus, had to appear before the Commission.
9. The Commission while disposing the appeal had held the PIO guilty of contravention of Section 7 (1) of the Act. However, the fact is that the then PIO, during the appeal proceeding was on maternity leave

and could not attend the proceeding. The then PIO, who is still availing Child Care Leave, appeared before the Commission and requested the authority to consider the said fact. In the meanwhile, it is seen that Shri. Prakash Bandodkar, the present PIO appeared and undertook to furnish the information on the next date of hearing. Accordingly, vide reply dated 03/10/2023 the present PIO has furnished the information and the same has been received by the appellant.

10. Considering the fact that the then PIO was on maternity and Child Care Leave during the appeal and penalty proceeding and that the present PIO has finally furnished the information as available, the Commission holds that there was no malafide intention behind the action of the PIOs and there is no need to proceed further with the penalty proceeding. Hence, the show cause notice issued against the then PIO needs to be withdrawn.
11. The grievance raised by the appellant after receipt of the information that the change of zoning was done arbitrarily, without his information, cannot be addressed by the Commission for want of jurisdiction. The information sought has been furnished and the delay in furnishing the information being not deliberate, thus, condoned in view of the situation mentioned above.
12. In the light of above discussion and findings of the Commission, the show cause notice issued against the then PIO stands withdrawn and the penalty proceeding is dropped. The matter is disposed 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

