

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. 09/2023/SIC

Shri. Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Khorlim-Mapusa-Goa 403507.

-----Complainant

v/s

The Public Information Officer,
Shri. Rajendra Bagkar (Head Clerk),
Mapusa Municipal Council,
Mapusa-Goa 403507.

-----Opponent

Relevant dates emerging from appeal:

RTI application filed on	: 21/12/2022
PIO replied on	: Nil
First appeal filed on	: 24/01/2023
First Appellate Authority order passed on	: 22/02/2023
Complaint received on	: 14/03/2023
Decided on	: 30/11/2023

ORDER

1. Being aggrieved by denial of the information and non compliance of the order dated 10/02/2023 passed by the First Appellate Authority (FAA), the complainant under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') has filed the present complaint against opponent Shri. Rajendra Bagkar, Public Information Officer (PIO), Mapusa Municipal Council. The said complaint came before the Commission on 10/03/2023.
2. The brief facts of the complaint as contended by the complainant are that, he received no reply to his application filed under Section 6 (1) of the Act, within the stipulated period, amounting to deemed denial of the request. That the complainant preferred first appeal before the FAA. FAA while disposing the appeal directed the PIO to furnish the information within 15 days.
3. The complainant further contends that, the PIO ignored to comply with the direction of his higher authority and has failed to furnish the information desired by him. Therefore, the complainant has approached the Commission by way of the present complaint.
4. The concerned parties were notified, pursuant to the notice the complainant appeared in person and filed submission in the entry registry dated 03/10/2023. PIO appeared in person initially and filed

reply on 06/06/2023, however, later stayed away from the proceeding.

5. PIO stated that, the reply was dispatched to the appellant through Registered AD Post and the information has been furnished alongwith the reply, which has been received by the complainant.
6. Complainant submitted that, the PIO has denied the requested information by informing him that the file is not traceable and as soon as the file is found, information will be furnished. Complainant further submitted that, the PIO firstly did not furnish the information and secondly, failed to comply with the direction of the FAA.
7. Upon perusal of the records of the instant complaint it is seen that, the complainant had sought information on five points and the said points being within the jurisdiction of Mapusa Municipal Council, the relevant information has to be available in the office of the PIO. Yet, the PIO did not respond to the application. Further, the FAA after hearing both the sides directed PIO to furnish the information. It is noted that the PIO during the proceeding of the first appeal furnished part information and informed the appellant that information on point no. 1 and 5 is not traceable.
8. At the same time it is observed that the FAA did not subscribe to the argument of the PIO that part information is not traceable. On the contrary, the FAA directed the PIO to verify replies given by deemed PIOs and then furnish the proper information within 15 days. However, the PIO did not furnish remaining information and further, during the present appeal proceeding maintained that the information as available has been furnished to the appellant. The Commission finds that the information on point no. 1 and 5 is not yet furnished.
9. The Act mandates the PIO to comply with the direction issued by the FAA, who is his higher authority. Here, in the present matter, the PIO has failed to adhere to the direction of the FAA. It appears that while denying the information, defence taken by the PIO before the FAA as well the Commission, is not substantiated with relevant documental evidence. Also, the PIO has not brought on record any genuine efforts taken by him in order to furnish complete information to the applicant.
10. Further, the Commission finds no wrong in the proceeding conducted and order passed by the FAA while disposing the first appeal. Thus, the PIO was mandated to comply with the order of the FAA.

11. In view of the facts of the present matter and the findings of the Commission it is concluded that the PIO has failed to comply with the direction of the FAA and as prayed by the complainant, direction needs to be issued to the PIO to comply with the order passed by the FAA. However, the Commission, finds no need to initiate penal action against the PIO.
12. Hence, the instant complaint is disposed with the following order:-
 - a) The complaint is partially allowed.
 - b) The PIO is directed to comply with the order dated 22/02/2023 passed by the FAA within 15 days from the date of receipt of this order.
 - c) All other prayers are rejected.

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.