

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

Appeal No. 314/2023/SIC

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

-----Appellant

v/s

1.The Public Information Officer/Head Clerk,
Mapusa Municipal Council,
Mapusa, Bardez-Goa 403507.

2. The First Appellate Authority,
The Chief Officer/ Mr. Chandrakant Shetkar,
Mapusa Municipal Council,
Mapusa-Goa 403507.

----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 23/05/2023
PIO replied on	: Nil
First appeal filed on	: 03/07/2023
First Appellate Authority order passed on	: Nil
Second appeal received on	: 06/09/2023
Decided on	: 05/02/2024

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), had sought certain information from Respondent No. 1, Public Information Officer. Being aggrieved by no response within the stipulated period, he preferred first appeal before Respondent No. 2, First Appellate Authority (FAA). It is the contention of the appellant that FAA failed to decide the appeal within the mandatory period. Hence, he was compelled to file second appeal before the Commission.
2. The concerned parties were notified and the matter was taken up on board for hearing. Appellant initially appeared in person, later was represented by Shri. Sudesh P. Tivrekar, under authority letter. Shri. Nilesh Lingudkar, present PIO appeared and undertook to file reply, however, no reply was filed, nor any information was furnished.
3. Appellant stated that, the information sought by him was not furnished by the PIO, nor first appeal was decided by the FAA, hence, he is aggrieved by the inaction of both the respondents. That

being so, he prays for complete information and appropriate action against the respondents.

4. Upon perusal of the records of the present matter, it is seen that, the appellant is primarily aggrieved due to non-receipt of the information and further, due to non-disposal of the first appeal. The Commission notes that neither the PIO nor the FAA have filed any justification or explanation for their failure to comply with the relevant provisions of the Act.
5. The application filed by the appellant should have been responded and information should have been furnished by the PIO within the stipulated period of 30 days. No response amounts to deemed refusal of the request, under Section 7 (2) of the Act. PIO had neither claimed exemption from disclosure under Section 8 (1), nor rejected the information under Section 9 of the Act. Meaning, the PIO was required to furnish the information.
6. The Commission, with all seriousness, notes the failure of the FAA to decide the first appeal. Section 19 (1) gives statutory right to the appellant to file first appeal against the PIO, and Section 19 (6) mandates the FAA to hear and decide the first appeal within a maximum period of 45 days. Records show that the FAA had issued notice for hearing of first appeal on 14/08/2023 at 3.30 p.m. However, there is no any evidence of proceeding or disposal of the said appeal. Non-hearing of the appeal denies an opportunity to PIO to justify his action and leaves the appellant without any relief.
7. This being the case, the Commission finds that the PIO is required to furnish the information desired by the appellant. Similarly, both the PIO and FAA are required to be admonished for failing in their responsibilities bestowed upon them by the Act.
8. In the light of the above discussion, the present appeal is disposed with the following order:-
 - a) PIO is directed to furnish the information sought by the appellant vide application dated 23/05/2023, within 15 days from receipt of this order, free of cost.
 - b) Director of Urban Development Department, Government of Goa is directed to issue clear and strict instructions to the PIO and the FAA to deal with the applications and first appeal respectively, in accordance with the provisions of law.

c) Registry is directed to send a copy of this order to Director of Urban Development Department, for appropriate action.

d) 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.