

GOA STATE INFORMATION COMMISSION

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Appeal No. 177/2022/SCIC

Mr. Eduardo Camilo Da Cruz,
R/o. H.No. 9/189/C,
Behind Placiano Building, Patrong Baina ,
Vasco-Da-Gama, GoaAppellant

V/s

1.The Public Information Officer,
Mormugao Planning and Development Authority,
2nd Floor, Commerce Centre, Vasco-Da-Gama, Goa.

2. The First Appellate Authority cum Member Secretary,
Mormugao Planning and Development Authority,
2nd Floor, Commerce Centre,
Vasco-Da-Gama, Goa Respondents

Shri. Vishwas Satarkar, State Chief Information Commissioner

Filed on: 30/06/2022

Decided on: 12/01/2024

ORDER

1. The Appellant, Mr. Eduardo Camilo Da Cruz, R/o. House No. 9/189/C, Behind Placiano Building, Patrong Baina, Vasco-Da-Gama Goa, vide his application dated 21/03/2022 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act), sought following information from the Public Information Officer (PIO), Mormugao Planning and Development Authority Vasco-da-Gama, Goa.

"1. Certified copy of the minutes/noting of the MPDA meeting held in which the plan at Annexure-2 with marking of a circle and Development Permission under Ref. No. MPDA/1A-N-14/2018-19/1618 dated 05/03/2019 was approved.

2. Certified copy of minutes/ noting of the MPDA meeting held in which the plan at Annexure-1 with no marking of a circle and Development permission order Ref. No. MPDA/1A-N-14/2018-19/1618 dated 05/03/2019 was approved.

3. Name of the official dealing hand and the Member Secretary who approved/passed the plan and issued the Development permission order Ref. No. MPDA/1A-N-14/2018-19/1618 dated 05/03/2019."

2. The said application was responded by the PIO on 13/04/2022 in the following manner:

"Your application under Right to Information Act, 2005, has been considered under section 7(1) of the Act and I am to inform you the following which is placed on record by the official of this Authority under section 5(4) and 5(5) of the Act.

- 1. With reference to the above subject, it is to inform you that the names of the official dealing hand and the Member Secretary who approved/Passed the plan and issued the Development Permission Order is as under:*

- a) Dealing Hand :Mr. Marcos Fernandes,
Architectural Assistant
b) Member Secretary : Ms. Vertika Dagur,
Town Planner."*

3. Since no information was provided with regards to the information at Serial No. 1 and 2, the Appellant filed first appeal before the Member Secretary, Mormugao Planning and Development Authority, Vasco-da-Gama, Goa being the First Appellate Authority (FAA).
4. The FAA, vide its order dated 02/06/2022, allowed the first appeal and directed the PIO to furnish the documents/plans at Serial No. 1 and 2 to the Appellant free of cost, within 10 days from the receipt of the Order.

5. The PIO complied with the order of the FAA and supplied certified copy of the document on 08/06/2022.
6. Being aggrieved and not satisfied with the information provided by the PIO, the Appellant landed before the Commission by this second appeal under section 19(3) of the Act.
7. Notices were issued to the parties, pursuant to which, the Appellant appeared alongwith Adv. Cliff Fernandes on 09/08/2022, Adv. J. Miranda appeared on behalf of the PIO and placed on record the reply of the PIO dated 08/12/2022. Adv. Rajesh Patel appeared on behalf of the FAA and filed his reply dated 08/12/2022.
8. Perused the pleadings, replies, additional replies, scrutinized the documents on record and considered the submissions of the rival parties.
9. In the course of hearing on 12/01/2023, Adv. J. Miranda, appearing for the PIO submitted that she is ready and willing to furnish the information. The Commission, therefore, directed the PIO to come alongwith the information on next date of hearing and matter was posted for compliance on 01/02/2023.
10. During the course of hearing on 01/02/2023, the PIO Shri. Ramesh Parsekar appeared alongwith the files and offered for inspection of records, and submitted that he has complied with the order of the FAA and furnished the information to the Appellant on 08/06/2022. In Order to resolve the issue, the Commission directed the PIO to file detail pointwise reply alongwith the documents.
11. In the course of hearing on 20/04/2023 the PIO Shri. Ramesh Parsekar filed his additional reply. Through said reply he contended that since fresh complaint was received by the Public authority from the Appellant, Mr. Eduardo Camilo Da Cruz on 29/07/2021, the site inspection was fixed on 08/09/2021 at 11.30 a.m., however same was postponed on

the request of interested party concern, Mr. Mahesh Nadar and same was later fixed on 28/09/2021.

Further according to the PIO, the site inspection was held on 28/09/2021 as scheduled and upon verifying the existing well on the site, the dealing hand Mr. Dharmendra Marathe had marked the location of the well in pencil on plan for his reference. And to substantiate his claim he produced on record the noting and the sketch drawn showing the location of the well.

12. The PIO further categorically replied that plan at annexure-1 with no marking of a circle and Development Permission Order Reference No. MPDA/1A-N-14/2018-19/1618 dated 05/03/2019 was approved in its 3rd meeting of Mormugao Planning and Development Authority held on 25/01/2019 at Vasco. The PIO also replied that after conducting site inspection of the said plot the authority decided to issue development permission. And to substantiate his claim he also produced on record the copy of the minutes of the 3rd meeting of Mormugao Planning and Development Authority held on 25/01/2019 alongwith the chart which consist of list of cases file number, location, area, survey number and decision of authority and names of members present and signature of members present for the said meeting.

13. Section 2(f) of the Act, defines the "information" as something which is available in material form and same is retrievable from the official records of a public authority. It cannot be something that is not a part of records of a public authority, similarly" right to information" means only access to information which is actually held or in existence with the public authority.

14. At this juncture, it is appropriate to refer the judgement of Hon'ble High Court of Bombay at Goa in the case **Dr. Celsa Pinto V/s Goa State Information Commission (W.P. No. 419/2007)** in which the court observed as under:-

"8.... In the first place, the Commission ought to have noticed that the Act confers on the citizen the right to information, Information had been defined by section 2(f) as follows:

Section 2(f)-Information means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circular, orders, logbook, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

The definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in a sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

15. It is pertinent to note that, the role of the PIO is information provider and he cannot be treated as a creator of the information, he also cannot either confirm or deny perception of the Appellant. The PIO cannot be held responsible for the merit or accuracy of the information or the decision taken by the competent authority.

16. The Hon'ble High Court of Andhra Pradesh in the case of **Divakar S. Natarajan v/s State Information Commissioner (W.P. No. 20182/2008)** has held as under:-

"16. Before undertaking further discussion, as to the legality or otherwise of the order passed by the respondents, the distinction between 'information' on the one hand and the 'reason' for existence of a

particular state of affairs on the other hand, needs to be noticed. The Act has comprehensively defined the word 'information'. It takes in its fold large variety of source of information, including documents, emails, opinions, press release, models and data materials etc. The common feature of various categories mentioned in the definition is that they exist in one form or the other and the PIO has only to furnish the same, by way of copy or description. In contrast the reasons or basis as to why a particular state of affairs exists or does not exist cannot be treated as a source or item of information."

17. In the present case, the PIO has furnished all the available information to the Appellant. He also offered the inspection of records. Considering the above facts and circumstances, I find no merits in the appeal and consequently the appeal is disposed off with the following:

ORDER

- The appeal is dismissed.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner