GOA STATE INFORMATION COMMISSION
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Shri. Atmaram R. Barve State Information Commissioner

Appeal No. 356/2023/SIC

Ms. Sharlet Fernandes,
Francisco Costa Ward 317,
Utorda-Majorda,
Salcete-Goa 403713. .....Appellant

V/S

1.The Public Information Officer (PIO)/Superintendent,
Directorate of Panchayats,
Panaji-Goa. 403001.

2. The First Appellate Authority (FAA),
Dy. Director (Administration),
Directorate of Panchayats,
Panaji-Goa. .....Respondents

Filed on: 03/10/2023
Disposed on: 08/01/2025

ORDER

1. This present second appeal arises out of the Right to Information (RTI) application dated 10/07/2023 addressed to the Public Information Officer (PIO) at the office of Directorate of Panchayats, Govt. of Goa; by Ms. Sharlet Fernandes; the Appellant herein.

2. The Public Information Officer (PIO) Smt. Neha H. Bandekar; vide her reply dated 13/07/2023 informed the appellant herein that the information sought by her is not available in the records of the Directorate of Panchayats.

3. Aggrieved by this reply, the appellant preferred the First Appeal dated 01/08/2023.

4. Vide Judgment/order dated 31/08/2023 the First Appellate Authority (FAA) dismissed the appeal citing grounds that; it would not be appropriate to direct the PIO to transfer the application to several other Public Authorities; and that the PIO has acted in a righteous manner.

5. Aggrieved by the order of the First Appellate Authority (FAA); the Appellant hearing preferred this Second Appeal dated 03/10/2023.

6. Notices were issued to the parties on 03/11/2023 and matter was taken up from 29/11/2023 onwards.

7. The Public Information Officer (PIO) vide reply dated 24/01/2024 contended that assistance of APIO (Assistant Public Information Officer) under section5 of the Right to Information (RTI) Application; the memorandum dated 14/05/1965 is not existing in her records and reiterated the stand that it would be inappropriate to transfer the Application to several Public Authorities.

8. The Appellant; vide her rejoinder dated 05/02/2024 contended that the aforementioned memorandum was an integral part of the Circular No. 19/11/DP/PAN/MEET-AGE dated 10/10/2003,

9. Due to the former State Information Commissioner demitting office; the proceedings in this matter halted from March, 2024 and resumed from 16/10/2024 onwards.

10. Both the parties filed their written arguments and also proceeded with oral arguments.

11. Upon perusal of the Appeal Memo and other material on record; this Commission is of the considered opinion that:-

a) There appears to be an undue haste displayed by the Public Information Officer (PIO) Smt. Neha Bandekar in so far as responding to the Right To Information application merely within three days by citing reason as "information not available" is concerned.

b) There is nothing on record to even remotely suggest that any attempt was made to either trace the said information or to seek the same from any other public authority.

c) Seeking the assistance of Assistant Public Information Officer (APIO) on 09/08/2023 that is much beyond the stipulated time period of 30 days appears to be an after-thought to achieve a favorable order from the First Appellate Authority (FAA).

d) The First Appellate Authority (FAA) has failed to consider aforementioned facts and as such its Judgment/order lacks a comprehensive approach.

e) It is a common observation that PIO's adopt a standard plea that "information is not available"; however; in case any information is not readily available; it should be the endeavor of the PIO to thoroughly search, locate and disseminate the information.

f) The very fact that the Appellant has brought on record the Circular dated 10/10/2003 wherein the memorandum dated 14/05/1965 is duly cited; is a valid ground to prima facie believe that the said information existed in government records.

g) Due to inaction on the part of the PIO it could not be ascertained if any other authority could

be in possession of the said memorandum; and it is also not clear whether the same has been destroyed in accordance with the rules of the concerned Department.

h) The Conduct of the PIO clearly suggests denial of information and defeats the very objective behind enactment of the Right to Information Act, 2005.

12. Therefore this present second appeal is disposed with following orders:-

a) The present second appeal is allowed,

b) The Judgment/order of the First Appellate Authority (FAA) is set aside,

c) The Public Information Officer (PIO) Smt. Neha Bandekar is directed to take necessary steps to trace, locate and furnish information to the Appellant Ms. Sharlet Fernandes on or before 10/03/2025.

d) The Secretary-Panchayats-Govt. of Goa is directed to conduct an inquiry into the matter and take steps to ensure that the Memorandum No. CDP/VPT/703/65 dated 14/05/1965 is traced, located and furnished to the information seeker. Compliance of the same shall be done and report to that effect be submitted on or before 17/03/2025.

e) Registry to issue Show Cause Notice against the PIO Smt. Neha Bandekar seeking clarification as to why penalty/disciplinary proceedings should not be initiated against her in terms of section 20(1) of the Right to Information Act, 2005; and directing her to ` remain present with reply to the same on 17/03/2025 at 11.000 a.m. failing

which penalty/disciplinary proceedings to be initiated.

f) Registry to ensure that authenticated copies are served to the concerned in a time bound manner.

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/-

(Atmaram R. Barve)
State Information Commissioner