

GOA STATE INFORMATION COMMISSION

Ground Floor, Shrama Shakti Bhavan, Patto Plaza, Panaji – Goa.

CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

**Appeal No. 21/SCIC/2014
Decided on 13/10/2014**

Dr. Padmaja Vijay Kamat
R/o. H.No. 25, Patantali,
Bandora, Ponda- Goa.

----- Appellant

V/s

1.The Public Information Officer,
P.E.S. Shri Ravi Sitaram Naik,
College of Art and Science, Farmagudi,
Ponda – Goa.

2.Principal/First Appellate Authority

Ponda Education Society's

Shri Ravi Sitaram Naik

College of Art and Science, Farmagudi, ----- Respondents
Ponda – Goa.

ORDER (Open Court)

RTI application filed on : 17/08/2013
PIO replied : 17/09/2013
First Appeal filed on : 18/10/2013
First Appellate Authority Order in : 13/11/2013
Second Appeal on : 14/02/2014

1. The Appellant as well as PIO and FAA (First Appellate Authority) are present in person. Adv. V.P. Thali for Appellant is present. The first Appeal has been rejected on the grounds of delay. Hence this second appeal is filed.

2. It was mentioned in the first Appeal memo that the reply of the PIO was sent on 17/09/2013 but received on 18/09/2013. The Letter issued by FAA to the Appellant on 13/11/2013 states that the Appeal was inwards on 18/10/2013. Through the above letter the FAA informed the Appellant as below:-

“This has reference to your First appeal preferred under section 19 of R.T.I. Act, 2005 which has been inwards under No. 1595 dated 18/10/2013. Para 2 of Appeal Memo mentions that the Appellant received the reply from the Public Information Officer vide letter No. 55/2013/498 dated 19/09/2013 on 18/09/2013. From the above averment it is clear that the Appeal is not filed within time as prescribed under the Act and hence the present Appeal is dismissed being not maintainable”.

3. The second Appeal is filed against the letter of FAA. The FAA has filed his detailed submissions before me. At para 3 of the submission, the FAA himself agrees that under section 19 (1) of the Right to Information Act, 2005 the day of receipt of the reply from PIO is to be excluded from the computation of the legal period of 30 days as allowed for filing first appeal. And yet he has rejected the appeal on the ground that it was filed on the 31st day, thus with the delay of one day. He has neither given a notice to the Appellant nor questioned him for the delay nor passed a legal order, which can be technically called legal. He has simply informed the Appellant through a letter, that too for rejecting the Appeal for a supposed delay of merely 1 day.

4. The above said letter of the FAA dated 13/11/2013 cannot be adjudged as the proper order, as it does not discuss on any merits, nor gives opportunity to the Appellant, and rejects the appeal, on the ground of delay, even when it cannot be considered to be delay when we apply section 19(1) of the RTI Act, 2005 in its strict technicality.

5. The letter of the FAA dated 13/11/2013 is taken as ORDER for the purpose of this second Appeal and with the above mentioned considerations, it is hereby dismissed. The FAA who is personally present, is directed to give a hearing to the Appellant and decide the Appeal on merit within 40 days from today.

Order declared in Open Court. This detailed judgement is to be informed to the parties.

Sd/-
(Leena Mehendale)
State Chief Information Commissioner
Panaji - Goa