

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 336/2023/SIC

Smt. Usha Laxman Gawande,
alias Lajasvi Laxman Gawande,
R/o. H.No. 660, Deulwada, Virdi,
Sankhalim-Goa 403505.

-----Appellant

v/s

1. Director/ First Appellate Authority,
Directorate of Sports & Youth Affairs,
Campal, Panaji-Goa.

2. Smt. Jennifer Ferrao e Gonsalves / PIO,
O/o Directorate of Sports & Youth Affairs,
Campal, Panaji-Goa.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 26/03/2022
PIO replied on	: 20/04/2022 & 30/05/2022
First appeal filed on	: 30/06/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 18/09/2023
Decided on	: 08/01/2024

ORDER

1. Being aggrieved by non-furnishing of the information within the stipulated period and non-disposal of the first appeal within the mandatory period, appellant, under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), has filed second appeal against Respondent No. 1, First Appellate Authority (FAA) and Respondent No. 2, Public Information Officer (PIO), which came before the Commission on 18/09/2023.
2. The concerned parties were notified, pursuant to which, Smt. Jennifer Ferrao e Gonsalves, PIO appeared and filed reply dated 22/11/2023. Appellant appeared in person and on 03/01/2024 filed counter reply to the reply of the PIO. None appeared for the FAA.
3. Appellant, alongwith the appeal memo, has filed application for condonation of delay in filing second appeal before the Commission, stating that, she was waiting for direction by the FAA to the PIO with respect to the requested information and since the first appeal was not disposed, delay was caused in filing the second appeal. The

Commission, upon considering the facts of the matter, condones the said delay and admits the appeal.

4. PIO, vide reply dated 22/11/2023 stated that, the appellant had not affixed court fee stamp to the application, hence, she informed the appellant to affix the court fee stamp and that she considered the said application for processing only after the court fee stamp was furnished. Thus, she assumes that the information was kept ready within the stipulated period and accordingly, she informed the appellant to collect the information after paying requisite charges. PIO further stated that, she had never denied the information and was always willing to furnish the same.
5. Appellant stated that, as required under the Act, she had shown willingness to pay the prescribed charges to get the desired information. However, since she has not received the information within the stipulated period from the date of application, now she prays for information free of charge. It is true that initially appellant failed to affix court fee stamp to the application, however, subsequently, she undertook to comply and finally furnished the court fee stamp to the PIO. The Act does not empower the PIO to stop processing of any RTI application till the court fee stamp is furnished, rather application has to be processed from the date of submission. Appellant finally submitted that, the PIO has no power to modify the date of appellant's application; information was not furnished within the stipulated period, hence, the same has to be furnished free of charge.
6. Upon perusal of the records, it is seen that, the appellant had sought the information vide application dated 26/03/2022 and the PIO, after about 25 days, vide reply dated 20/04/2022, brought to the notice of the appellant that the court fee stamp was not affixed. Further, vide letter dated 02/05/2022, the appellant furnished court fee stamp. PIO vide reply dated 30/05/2022, issued after almost a month from receipt of court fee stamp, informed the appellant to collect the information after paying requisite charges of Rs. 1,048/-
7. The Commission notes that, the PIO, though did not deny the information, took 25 days to inform the appellant to affix court fee stamp. Further, upon furnishing the court fee stamp, again took about a month to notify the appellant regarding the information.
8. Section 5 (3) of the Act states that, the PIO shall deal with requests from person seeking information and render reasonable assistance to

the person seeking such information. Accordingly, the PIO in the present matter, was required to advise the appellant to furnish the court fee stamp, if the same was not affixed to the application and such an action should have been taken by the PIO within minimum period from receipt of the application, definitely not 25 days.

9. Similarly, the Act does not allow the PIO to modify date of the application. PIO in the present matter, in her own wisdom assumed the date of furnishing of court fee stamp as the date of application. The Commission holds that the PIO is not empowered to modify the provisions of the Act, on the contrary, the Act mandates the PIO to act only within the framework and provisions of the Act.
10. Section 7 (1) of the Act makes it clear that, the information has to be furnished within the stipulated period of 30 days and prescribed fees can be charged by the PIO only if the desired information is furnished within 30 days.
11. In the background of the above mentioned facts and findings, the Commission concludes that, the PIO is required to furnish the information to the appellant free of charge. However, the information was not intentionally denied and the PIO had not tried to evade disclosure of the information. Considering the said facts, the Commission is of the opinion that, there is no need to invoke Section 20 of the Act against the PIO for any penal action.
12. Before closing, the Commission notes with all seriousness that the first appeal filed by the appellant was not decided by the FAA within the mandatory period. It appears from records that, the FAA issued notice for hearing of first appeal, however, the appellant could not attend since she did not receive the notice in advance. Section 19 (1) gives statutory right to the appellant to file first appeal and section 19 (6) mandates the FAA to dispose the appeal within the mandatory period of 45 days from the date of filing thereon. Although, the appellant was not present, the FAA was required to decide the matter on merit and pass an appropriate order. Failure of the FAA to act as provided, has caused harassment and incurred unnecessary stress to the appellant. Hence, the FAA in the present matter is directed hereafter, to decide first appeals received under Section 19 (1) of the Act, strictly as provided by law.
13. In the light of above discussion, the instant appeal is disposed with the following order:-

- (a) PIO is directed to furnish the information sought by the appellant vide application dated 26/03/2022, within 10 days from receipt of this order, free of cost.
- (b) 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.