

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Appeal No.73/SCIC/2015

Shri I. S. Raju,
R/o H. NO. 706 A,
Acsona Benaulim,
Salcete –Goa. Appellant
V/s

- 1) The Public Information Officer,
BDO, Salcete,
Margao-Goa. Respondent No.1
2) The First Appellate Authority,
Dy Director of Panchayat,
Salcete, Margao –Goa, Respondent No.2

CORAM

Shri Prashant S.P. Tendolkar, State Chief Information
Commissioner,

Smt. Pratima K. Vernekar, State Information Commissioner

File on 29/06/2016

Disposed: 03/10/2016

Brief facts:

- a) By an application, dated 25/11/2014, the appellant herein had requested the BDO Salcete to seal the premises of one Mrs. Maria D'Souza. According to appellant, said application was replied on 5/12/2014.
- b) By application, dated 13/01/2015 filed under section 6(1) of the Act, the appellant requested the Respondent No.1, PIO to provide the detail comments of the village Panchayat Secretary. The said application was replied by the PIO on 12/02/2015 requesting him to collect the said information on payment of fees. The appellant by his letter dated 14/02/2015, by sending the requisite fees, requested the PIO to send the information by post.
- c) It appears that as the said letter was not replied by PIO, by appeal dated 13/03/2015 the appellant prayed to the FAA for necessary relief by filing first appeal. The first said appeal was taken up for hearing by issuing notice on

...2/-

31/01/2015 took up the said matter for hearing. Issuance of the said notice by first Appellate Authority was objected by the appellant by his letter, dated 6/04/2015 contending that he expects an order and not a notice and that he shall not be attending the office. However the First Appellate authority by his order, dated 28/04/2015, finally directed the PIO to issue the copies of the information.

- d) By an application dated 09/05/2015, the appellant raised a grievance with the FAA wherein he also sought status and action taken report on his application.
- e) Having not received the reply, the appellant has approached this Commission by second appeal.
- f) After notifying the parties the Respondents filed the reply. In the reply filed by the PIO it is submitted that the said information which was sought is furnished by the PIO. The PIO produced on record the letter dated 08/08/2016 alongwith copy of the letter dated 04/02/2015 of the Village Panchayat of Cana Benaullim. As per the said letter the information was not furnished by the ex BDO of Salcete inspite of the order of the FAA.

2) FINDINGS:

- a) We have perused the records. Thought there are several correspondence exchange within the parties the relevant for the purpose do decided this appeal is the application date 13/01/2015 of the appellant. In said application he has sought for the copy of the detail comments of the Village Panchayat Secretary. The said information was offered to the appellant on payment of fees which were accordingly paid but the request of the appellant to send the said information by post was not attended to. This has resulted in the first appeal wherein an order was passed by the FAA on 28/04/2015 directing PIO to furnish the information. We find this order of First Appellate Authority is justified.

...3/-

- b) From the reply filed by the PIO it is seen that the information is furnished only on 8/08/2016. According to the PIO the said information was not furnished by the earlier BDO Shri M. S. Mardolkar.
- c) The information has been already furnished now as per the reply of the PIO and as such no intervention of the Court is required. However, it is necessary to confirm from the appellant that he has received the same. In the course of proceeding appellant has submitted that he is a senior citizen and hence requested this Commission to accommodate him for his difficulties due to his old age. We find this difficulty of appellant to be genuine. Hence we are of the opinion that the information is furnished to the appellant at his place of residence.
- d) The RTI Act is a beneficial legislation and gives an opportunity to the Public Authorities to show transparency in its functioning. We are also of the opinion that a negative presumption would arise against public authority regarding its functioning in case the authorities do not avail such opportunities.

In this case the PIO has specifically pleaded that the then PIO who was earlier BDO had not complied with the order of FAA. Such an action prima facie leads us to hold that the then BDO has violated the provisions of the act, attracting for an action of penalty under section 20 of the act.

- e) In the aforesaid circumstances, we dispose the present appeal with following :

O R D E R

- i) PIO, B.D.O Salcete I, Margao Goa is directed to serve the copy of the information as furnished by him i.e. the copy of letter No.VP/C-B/2941/2014-15, dated 04/02/2015 to the appellant either by hand delivery or by Registered post A/D and produce the proof of acknowledgement before this Commission on 08/11/2016 at 10.30 am.

- ii) Issue notice to the then B.D.O. Shri M. S. Mardolkar, to show cause as to why action should not be taken against him as provided under section 20(1) and/or 20 (2) of the Right to Information Act 2005, returnable on 08/11/2016 at 10.30 am .
Such notice on then B.D.O. to be served through B.D.O. Salcette -I.

Notify the parties

Appeal disposed off accordingly.

Pronounced in open proceedings.

Sd/-
(Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa

Sd/-
(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission
Panaji-Goa