

BEFORE THE GOA STATE INFORMATION COMMISSION

Seventh Floor, Kamat Towers, Patto, Panaji, Goa.

**CORAM: Smt. Pratima K. Vernekar,
State Information Commissioner**

Appeal No. 186/SIC/2010

**Mr. Premanand G. Phadte,
46/E, Arlem-Raia, Salcete Goa 403720Appellant
V/s.**

1. The Public Information Officer,
The Secretary, Raia Village Panchayat,
Raia, Salcete-GoaRespondent No. 1
2. The Block Development Officer,
First Appellate Authority,
Salcete-II, Margao-GoaRespondent No. 2

Appeal Filed on . 04/08/2010

Disposed on. 06/05/2016

ORDER

The brief facts relating to present Appeal are as under:-

1. The Appellant Shri Premanand G. Phadte by his letter dated 24/05/2010, had sought certain information from the Respondent No. 1, Public Information Officer (PIO) under the Right to Information Act 2005.
2. Since the Respondent No. 1 PIO, did not reply to his Application, Appellant thereafter preferred an Appeal before Respondent No. 2. The Respondent No. 2 dismissed the appeal on the ground that both the parties were absent.
3. Being aggrieved by the said Order of First Appellate Authority (FAA) the Appellant preferred the present appeal on various ground as set out there in the Appeal Memo. On scrutiny of the file it is seen that a reply has been filed by both the Respondent No. 1 & 2 before this Commission. However, during subsequent hearings both of this have opted to remain absent despite advance notices. The say of PIO and that of FAA are contrary to each other.

The reply of Respondent No. 1 reveals that he was directed by the FAA to inform the appellant that information is kept ready and accordingly he intimated the same vide his letter dated 29/06/2010. On the contrary Respondent No. 2 specifically submits that as both the parties remained absent during hearing

before him the appeal was dismissed by him. He has also relied on the copy of the Roznama in support of his contention.

4. At the outset it is observed by the Commission that the FAA has dealt with the matter in very casual manner by disposing off the First Appeal which is not in accordance with the provisions of law. Under the Right to Information Act (RTI 2005) there is no provision for an Appeal to be dismissed by default. The law mandates that the appeal has to be dealt with and disposed on merits. Section 7(2) of Goa State information Commission (Appeal Procedure) Rules 2006 gives liberty to the appellant not to remain present.

5. This Commission is also of the opinion that since the First Appellate authority is an Officer of Senior Rank, the FAA could have taken serious view of his subordinate the PIO's absence before him as it amounts to insubordination. Action could have been taken by the FAA for such lethargic and Casual attitude on the part of PIO. The dismissal order has caused injustice to the appellant beside being illegal arbitrary and perverse defeating the very purpose of RTI Act. There is a procedural irregularities and there is legal infirmity on the part of the Respondent No.2 in not notifying the appellant about his decision and not mentioning the details of appellate authority or the period of filing appeal. From the reply of the Respondent No. 2 it is evident that the order has been already passed by the FAA within the stipulated time as such the second prayer sought by the appellant become infructuous.

6. Through the reply of Respondent No. 1 it is revealed that information has been already furnished. However, there is nothing on records to substantiate the same. The Commission could not seek any clarification as regards the mode of sending the information and Acknowledgement due if any was obtain. In absence of any proof, the Commission comes to the conclusion that no information has been furnished to the appellant, as such the Commission is of opinion that the relief in terms of prayer (a) is required to be granted

The object of RTI Act is to bring transparency and to bring accountability of functioning of public office and the mandate of RTI Act is perse to provide information. It has been observed in this case that then PIO has failed and neglected to perform his public duties. The mandate of section 7(1) of the RTI Act requires PIO to decide the request for information either by providing the information on payment of necessary fees or reject the request under section 8 & 9 of RTI Act. Decision of PIO to be done expeditiously as possible and within the period of 30 days. It is seen from the records in the present case that then PIO has not even replied to RTI application. Further from the records it is observed that after the Order passed by FAA a letter was send by then PIO, Krishna Gaude dated 23/04/2011 informing Appellant that the points No. 1 to 8 of his RTI application are not available in record of file in Panchayat. However in reply

before this Commission the same PIO submits that information as sought is already provided. Two contrary stands are taken by then PIO. The subsequent letter of his successor Shri S. Phadte reveals that the information was available.

Two contrary replies of Shri K. Gaude one given to Appellant and 2nd before this Commission cannot be ignored and brush aside and a serious view has to be taken accordingly I am of the opinion that such a irresponsible conduct of then PIO cannot be overlooked.

From the facts before this Commission it is apparent that then PIO is guilty of not furnishing information within the time specified under section (1) of section 7 by not replying within 30 days as per requirement of RTI Act. Great hardship has been caused to the Appellant in pursuing the said RTI application before different Appellate Authority. As such this Commission is of the view that compensation to the appellant would meet the ends of justice.

In view of above following Order is passed.

- 1) PIO is directed to furnish to the Appellant the entire information as sought by him by his application dated 24/05/2010 within 15 days from the receipt of the Order.
- 2) Issue notice to then PIO, Shri K. Gaude, to show cause as to why he should not be directed to pay compensation to the appellant returnable on 17/07/2016.
- 3) Both Respondents are directed hence forth to comply with mandatory provisions under RTI Act.

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.

Pronounced in the open court.

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

