

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Appeal No. 23/SIC/2014

Shri Trajano D'Mello,
Vice President and Chief Spokesperson,
N.C.P., Goa State.
R/o Opposite Peddem Sports Complex
Mapusa Goa.

..... Appellant

V/s.

1. Public Information Officer,
O/o the Administrator of Comunidade
of North Zone,
Mapusa Goa.

..... Respondent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 21/02/2014

Decided on: 18/07/2016

ORDER

Brief facts of the case are that by an application dated 7/10/13 the appellant Shri Trajano. D'Mello sought certain information at point 1 to 4 stated there in the application under section 6 of Right to Information Act regarding the settlement of Regular Civil Suit No. 271/2012/B in relation to plot of land of Comunidade of Serula to Shri Dilip Parulekar

The said application was replied by the Respondent No. 1 PIO here in. By his reply dated 14th November, 2013 PIO informed applicant that his application was referred to Comunidade of Serula for necessary action on 22/10/2013 as no records pertaining to the said matter was available with their the office, and that Registrar of Comunidade of Serula vide letter dated 7/11/2013 had sought for fifteen days time to search and verify the records of the Comunidade. The copy of the both the letter stated herein above were annexed to the appeal memo.

..2/-

Being aggrieved by the reply and action of Respondent No. 1 PIO in not furnishing the information the Appellant then filed First Appeal Under section 19(1) before the First Appellate Authority and Collector Panaji, who by an order dated 10/01/14, directed the Respondent No. 1 PIO to collect the information from the concern clerk of Comunidade of Serula and to furnish the same to the Appellant within 20 days.

The Appellant has filed the present second appeal Under section 19(3) being aggrieved by the fact that despite of the order of the first appellate authority, the Respondent No. 1 PIO has failed to furnish the information till date. By this Appeal the Appellant has prayed for direction to the Respondent No.1 PIO to furnish the complete information as per his application dated 7/10/13 and also prayed for Penalty and compensation and also for disciplinary action to be taken against Respondent No. 1 PIO.

The notice was served on both the parties. During the hearing Appellant was present in person. Respondent No. 1 PIO though served remained absent; several opportunities were also given to the Respondent to substantiate their stand and to put up their case. In view of the continuous absence the commission felt that the Respondent is not interested in contesting the Appeal. Hence the arguments of appellants were heard.

The Appellant during the argument submitted that in spite of the order of First Appellate Authority till date the information is not been submitted to him. By pointing out to the record, he further submitted that from the action of PIO it is clear that he has no respect or consideration to his Senior Officer nor to this Commission. The conduct of PIO is adamant and contra with the provision of RTI Act 2005.

He further submitted that Comunidade of Serula and its working under the tutelage of State Government and its under the direct control of the Respondent No. 1 and being so the Respondent No. 1 has direct

access to the information sought by the applicant. However the Respondent adopted delaying tactics and ultimately did not furnish information to him despite of the said information is available in Comunidade of Serula. He further submitted that the information sought by him was denied to him without any genuine reasons .

He further submitted that no inspection of the file was given to him as such the Respondent No. 1 PIO should be suitably furnished by imposing penalty and also by directing an inquiry under the service conditions.

I have considered the arguments of appellants and also records available in this present appeal. On perusal of order passed by First Appellate Authority it reveals that the First Appellate Authority directed PIO to provide information as sought by him, by collecting the said from the concerned clerk of Comunidade of Serula. However, in utter disregards to the said order the PIO again failed to provide information as sought for. Once an order is passed by FAA who is senior rank officer then the PIO there was no option left to the PIO then to comply such order.

Further glaringly it can be noted in the course of this proceedings that on receipt of the notice of the appeal no explanation or reason is furnish by the PIO for not providing the information. The PIO also continuously remained absent.

Considering the above position I do not find any thing on record to infer that the information is sought for has been furnished and hence I find force in the argument of appellant that having not receiving the information earlier inspite of the order of the First Appellant Authority the intervention of this Commission is necessary.

Considering the conduct of PIO and his indifferent approach to the entire issue, I find substance in the argument of the Appellant that the PIO

has purposely and malafied refused access to the information. This leads me to the prima facie to infer to any substance in the allegation of the appellant that PIO has malafied denied to the request for information calling for imposition of penalty and recommending disciplinary action against the Respondent No. 1 PIO.

In the aforesaid circumstances I prefer to dispose this appeal with following order.

Order

1. Appeal is allowed.
2. Respondent No.1 PIO is directed to furnish to the appellant the entire information as sought by his application dated 7/10/13 free of cost within 3 weeks from the date of this order and report compliance to this commission within 40 days from the date of order.

Issue notice to Respondent No. 1 PIO to show cause as to why action for penalty, fine and recommending disciplinary action as provides under section 20(1) and (2) should not be initiated against him returnable on 22/8/16 at 3.30 P.M. if no reply is filed by PIO it shall be held that he has no explanation to offer and further order as deemed fit shall be passed.

Appeal dispose of accordingly proceeding closed.

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 under the Right to Information Act 2005.

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

Ak/-

