

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Appeal No. 26/SCIC/2014

Shri Vishwanath B. Solienkar,
S-1 Artic Apts, Behind Don Bosco Eng.
College, Fatorda, Margao-GoaAppellant

V/s

1. The Public Information Officer (PIO),
Village Panchayat of Curtorim,
Salcete-Goa
2. The First Appellate Authority,
Block Development Officer of Salcete,
Margao-Go

.....Respondents

Appeal filed on: 28/02/2014

Decided on: 22/08/2016

ORDER

1. Brief facts of the case are that the Appellant Shri Vishwanath B. Solienkar had vide an application dated 26/10/2013 sought certain information under section 6(3) from Respondent, Public Information Officer (PIO), Village Panchayat of Curtorim Salcete, pertaining to order dated 19/07/2013 of the Block Development Officer in Appeal No. BDOS/4/2013 and also pertaining of the Appellant application for occupancy certificate of residential house on plot No. A-5 of property bearing Survey No. 500/2 situated at Curtorim, Salcete, Goa which was received in the O/o. Village Panchayat Curtorim, Salcete, on 14/10/2013
2. The application had sought information on two points as listed herein under:-
 1. status of Approval of the Appellant application for occupancy certificate with respect to the Order of BDO dated 19/07/2013 in Appeal No. BDOS/4/2013 and
 2. certified copies of the objections/ complaints/notes with respect to the application for occupancy certificate.

3. As the Respondent No. 1 PIO (Public Information Officer) did not respond to his application u/s 6 of RTI Act the Appellant preferred an 1st Appeal on 22/01/2014 before BDO of Salcete being FAA (First Appellate Authority). By an Order dated 10/01/2014 the Respondent No. 2-FAA (First Appellate Authority) directed the Respondent No. 1 PIO to furnish the correct information to the Appellant within 7 days from the date of passing of the Order.
4. It is case of the appellant that even after 7days of passing of the order by FAA-Respondent No. 2, no information was furnished to him as such he sent the reminder to Respondent No. 1 –PIO on 17/01/2014 there by also enclosing copy of the Order passed by the FAA.
5. The Appellant vide his letter dated 22/01/2014 also brought to the notice of Respondent No. 2 FAA that Respondent No. 1 did not complied to their Order and failed to provide him correct information as sought for and also prayed for necessary disciplinary/penal action against PIO for not providing information within stipulated period. The said letter is also enclosed to the present Appeal memo by the Appellant.
6. Further since the Order of FAA was not complied nor responded to his reminder by Respondent No. 1-PIO the Appellant being aggrieved by the action of Respondent No. 1-PIO filed the present Appeal u/s 19(3) of the RTI Act before this Commission on 28/02/2014 with the prayers to direct Appellant to provide the information sought for and also for invoking penal action.
7. In response to the notice issued by this Commission, the Appellant remain present in person where as Respondent No. 1 was represented by Advocate Barbosa. The reply came to be filed by Respondent No. 1 PIO (Public Information Officer) on 23/06/2016 informing this Commission that the Respondent No. 1 has already furnished the information vide their Office letter dated 16/05/2013. The Respondent No. 1 PIO, has also enclosed the copy of the letter 16/05/2013 addressed to the Appellant and also letter dated 01/06/2013 to the Block Development Officer in support of the contention that the information is furnished.
8. Arguments were advanced by the appellant on 23/06/2016. During the argument Appellant submitted that signature appearing on the said letter dated 16/05/2013 addressed to him is not his signature and further catgorily stated that the signature appearing on the said letter is not made by him. It was also brought to the notice of Advocate for Respondent No. 1 by this Commission that the letter dated 16/05/2013 enclosed to the reply is much before the filing of the application and where as the application made u/s 6 of RTI is dated 26/10/2013. A clarification on above 2 points

were sought by this Commission from the Advocate for the Respondent and he was unable to explain the same as such he sought time to seek clarification from Respondent No. 1/PIO. Accordingly he was directed to file his written synopsis clarification on the above mentioned two points within 8 days.

9. In pursuant to the direction to this Commission the Advocate C. Barbosa representing Respondent No. 1 filed reply on 04/07/2016 to this Commission and submitted that the information is sent to the Appellant by Registered A. D. vide their letter dated 01/07/2016 and also submitted that the earlier information was furnished to him vide letter dated 16/05/2013. And then the matter was fixed for clarification on 25/07/2016.
10. During the hearing on 25/07/2016, Appellant was present in person and both the Respondents opted to remain absent. During the hearing the Appellant filed clarification on the written arguments and reply. He has submitted that Respondents No. 1 knowingly given incorrect and misleading information and that no information has been provided to him with respect to the information sought for in relation to the BDO Order at query (b) of RTI application. He pointed out Roznama of the proceeding before BDO where in on 19/07/2013 the Secretary of Village Panchayat Curtorim has confirmed that the house is complete and ready for occupancy vis vis the same the Appellant then pointed out a fresh reply given to him on 01/07/2016. Where in it is submitted that the house is not fully complete as the work of fitting of tiles, doors, plastering work is incomplete and therefore issue of occupancy certificate and for water is kept pending. The Appellant further also pointed out the judgment passed by the BDO (Block Development Officer) on 19/07/2013 in Panchayat Appeal No. BDOS/4/2013. And pointed out the observation made in the said judgment that ***"in absence of any intimation to the Appellant it cannot be believed that the Appellant house is incomplete and the report stated to have been prepared by the Respondent cannot be also considered as to be true in absence of Appellant for site inspection."*** He further pointed out the para wherein Village Panchayat Secretary has categorily stated before him that the balance work of the house has been completed. Appellant then submitted that based on the statement of the Village Panchayat Secretary, the BDO directed the Respondent Secretary to issue occupancy certificate and also NOC for electrical water connection to the house of Vishwanath B. Solienkar. The said observation are reflected in the judgment at page 3 (last para). Therefore Appellant submitted before this Commission that the incorrect and misleading information has been provided to him on his application.

11. On perusal of his RTI application vis vis the reply furnish to the Appellant on 1/07/2016 and the other on 16/05/2013 are given in very casual manner. As regards to the query raised by the Commission that the statement made by the Respondent with the information has been provided to the appellant in May 2013 vide their letter bearing No. VPC/2013-14/311 is five months prior to the Appellant seeking information under the RTI Act have not been clarified by the Respondent No. 1, PIO nor they have clarified about the disputed signature appearing on the said letter.
12. On going through the Roznama of 19/07/2013 and proceedings before BDO in case No. P.A. No. BDOS/04/2013 vis vis reply of the Respondents on the RTI application dated 26/10/2013 one could gather that Respondents have not provided the true, correct and complete information. It appears the Respondents has withheld the correct information to cover up the lapses and the irregularities on their part.
13. Be that as it may be records reveals that the Order was passed by the FAA on 10/01/2014. Vide said order the Respondent No.1 was directed to furnish the correct information to the Appellant within 7 days. It is further, seen that the inspite of the reminders by the Appellant to the PIO the said order of the FAA is not complied. Once the order is passed by the FAA who is senior in rank there is no option with PIO then to comply with such order. However, it utters disregard to the said order the PIO again failed to provide information as sought for.
14. Further glaringly it can be noted in the course of this proceedings that no explanation or reason whatsoever nature by the PIO for not furnishing the information even after the order of FAA are given. It is further observed that the information came to be furnished on 01/07/2016 as such there is a delay of about approximately 2 and ½ years in furnishing the information after order of FAA. Such an irresponsible attitude and the willful conduct on the part of Respondent No. 1, PIO is condemnable which is against the mandate of RTI Act.
15. Considering the conduct of the PIO and his indifferent approach to the entire issue I find some substance in the arguments of the Appellant that the PIO purposely and malafidly refused assess to information and that the PIO has provided him incomplete and incorrect information. Such allegation if proved, would call for disciplinary proceeding and imposition of penalty recommending action against PIO in the aforesaid circumstances I proceed to dispose this Appeal with the following Order:-

ORDER

Appeal is allowed.

- a) PIO is directed to furnish the Appellant the complete and correct information as sought by the Appellant by his application dated 26/10/2013 free of cost within 3 weeks from the date of receipt of this order and report compliance to this Commission alongwith acknowledgement of the Appellant to this Commission within 10 days thereafter.
- b) Issue notice to Respondent No. 1 PIO to show cause and as to why action for imposing penalty, compensation and disciplinary action as provided in section 20 (1) and 20 (2) should not be initiated against him returnable on 14/09/2016 .
- c) If no reply received from the PIO it shall be deemed that he has explanation to offer and further order as may be deemed feet shall passed.

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.

Pronounced in open proceedings.

Sd/-

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