

GOA STATE INFORMATION COMMISSION

‘Kamat Towers’, Seventh Floor, Patto, Panaji – Goa

CORAM: Shri Prashant S. P. Tendolkar
State Chief Information Commissioners
Smt. Pratima K. Vernekar,
State Information Commissioner

Appeal No.116/SIC/2009

Rabindra A. L. Dias,
Dr. Pires Colony, Block “B”,
Cujira, St. Cruz, Tiswadi Goa. Appellant

V/s.

1. Public Information Officer,
The Village Panchayat of velim,
Velim Salcete Goa. Respondent No. 1
2. First Appellate Authority ,
The Block Development Officer,
Margao Salcete Goa. Respondent No. 2

Date of filing: 17/11/2009

Date of Disposal: 25/4/2016

1) Facts:

a) The appellant by his application u/s 6 of The RTI ACT (ACT), dated 27/06/2009 sought certain information to his 26 queries as contained therein from the Respondent No.1. According to the appellant the Respondent No.1 did not reply the same within stipulated period and hence the appellant preferred first appeal to the respondent No.2.

b) The Respondent No.2 by its judgment and order, dated 24/09/2009, disposed the appeal. According to the appellant on a schedule date of hearing i.e. on 16/9/2009, the appellant wrote a letter to the Respondent No.2 highlighting section 6 and 7 of the act. It is further , the case of the Appellant that the Respondent No.1 did not abide by the provisions of Section 7 (2) of the Act and that the Respondent No.1 did not furnish the reasons for rejection and the period for appeal, or the

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Details of the appellate authority. It is further the case of the appellant that when an information was held by another appellate authority, the PIO did not obtain the same from such authority as required by section 6(3) of the Act. The appellant had challenged the order of the First Appellate Authority (FAA) on the alleged ground for not adhering to provisions of section 7 of the Act. According to the Appellant the order passed by the 2nd Respondent is biased.

c) The appellant has also challenged the order on the ground that when he visited the office of the panchayat on 26/09/2009 he was handed over a letter with inscription that no such document are available with the panchayat records.

d) In this appeal the appellant contends that the Respondent No.1 has put him to hardship by not abiding the provisions of the Act as also by not transferring the application and also by giving incorrect information. It is in this back ground that the appellant has prayed this Commission to take cognizance of the non adherence of the provisions of the act and furnishing of incorrect and misleading information. The appellate also claimed compensation on account of leave he sought from the Govt. Department, where he works.

d) Notice of the present appeal was served the Respondent pursuant to which they filed the reply. According to Respondent No.1 the appeal is not maintainable as no information is not sought for. According to him information sought has been correctly furnished which was available. According to Respondent NO.1 necessary letters were forwarded to the concerned authority and they have not committed and the information as was sought for and which was available was forwarded within prescribed time.

e) The appellant filed his written submission. The respondent did

not file any submission. Hence the reply that was filed by the Respondent No.1 to the present appeal are considered as substantive submissions on the behalf of Respondent No.1.

2) FINDINGS:

a) On going through the records it is noted that by application, dated 22/07/2009, the appellant has sought for answers to 26 queries. The said application was replied by the respondent No.1 by the letter dated 18/08/2009 . As per the said letter the queries at serial No. 1 to 5 are answered, 06 to 11 and 14 to 26 are stated to be not available with the Panchayat and queries No. 12 and 13, as pertaining to the other public authorities, are transferred to such other public authority. Considering the said reply it is apparent that the PIO has dealt with the said application fully. Whatever information that was available has been furnished by PIO and whatever that is held by other authority are transferred to such authority under section 6(3) of the act. Thus the queries at serial nos. 1 to 5, 12 and 13 are answered.

b) On going to the records the FAA has recorded that in the course of hearing it is submitted by the appellant that he has not received information which was offered to him by the Respondent No.1 by letter dated 16/08/2009. It is further recorded in the said judgment that the appellant has agreed to visit the Panchayat on 26/09/2009 to collect the copies of required information. It is no where the grievance of the appellant in the present appeal that said submission are wrongly recorded. On the contrary at para (10) it is submitted by the appellant that as per the verbal direction of the respondent No.2 he visited the office of Panchayat on 26/09/2009 and received the letter dated 18/08/2009. This shows that the appellant has acted on the said order of FAA, dated 24/9/2009, on 26/09/2009. Considering the entire sequence of events, there is no room to infer that there was any delay on the part

of PIO in offering the information.

c) The queries no.6 regarding which the PIO states as not available, if are perused pertains to certain records which are not required to be maintained by the panchayat. The Goa Panchayat Raj Act, under which the PIO is required to maintain the records, nowhere requires maintenance of addresses and telephone number of its members though as a routine and for convenience such details are maintained it may not be authentic or for public records.

d) Now coming to the queries of the appellant under No. 7 to 11 and 14 to 26, they pertain to the constitution, registration, and management of an organization/institution viz. Holy Cross Chapel, over which the Panchayat has no control. The PIO in the reply as accordingly stated that no such documents are available in its records. Such organizations are not controlled by the Government or the Panchayat and hence its records are not available for the purpose of furnishing the information to the seeker. Further more the appellant has failed to show that the organization of the Holy Cross Chapel is a public authority as the queries were pertaining to certain construction undertaken by said organization. The panchayat is expected under the law to have only the records pertaining to such construction. In the circumstances we do not find any illegality or infirmity or delay on the part of Respondent No1 in furnishing the information.

e) In this appeal the appellant has not sought for any direction to the PIO to furnish any information. The appellant has the grievance against the order of the 1st appellate authority and that of the PIO there on the ground that there is no reference of Right to appeal and the details of the Appellate authority mentioned therein .It is also the grievance of the appellant that there is no notice properly served on him in the first appeal. This omission appears to be correct but they are only technical

in nature. There is no submission or evidence to substantiate that any such omission on the part of Respondents has at all caused any prejudice, inconvenience, or hardship to the appellant. The appellant had participated in the proceedings and has filed the appeal notwithstanding such omissions.

f) The prayers of the appellant are in the nature of penal action either by grating of penalty or by compensation. The strength of evidence required in such proceedings is laid down by the Hon'ble High Court of Bombay at Goa in **writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others** wherein it is held;

“11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate.”

g) The appellant in the present appeal has sought for compensation on the alleged ground of the violation of the provisions of the Act by the respondents as also for the leave sought by him from the Govt. department. We are not inclined to consider this prayer firstly because as found herein above there does not appear any violation in provision though there is an infirmity on the part of the Respondent NO.2 in not mentioning the details of the appellate authority or the period for filing appeal and also the validity of service /notices. But, compensation on this ground is not provided under the act and the appellant has also not made out any case for compensation out of such infirmities.

h) Coming to the claim of compensation on the ground of leave availed from the Govt. Department, the same is not borne out of record. Nowhere the appellant has pleaded that he is a government servant or that he has availed leave for the purpose of this proceedings. A

perusal of the verification clause also does not substantiate that he is a Govt. employee. No leave records are made available for substantiating the claim. In this circumstances the request of the appellant for grant of compensation on the ground of loss of leave is not made out as is required.

i) In his written submission filed by the appellant, after setting the sequence of event the appellant has quoted several judgments of the CIC in support of the role of the PIO under the Act. Though we may subscribe to the ratio laid down in the said cases the facts and circumstances involved therein are not akin to that of the present appeal and hence not applicable herein.

Considering the above facts, the appellant has failed to prove that the order of the FAA suffers from any legal infirmities or that the alleged failure to supply the information is either intentional or deliberate. Consequently we do not find any case to compensate the appellant by way of penalty or compensation. In the result we proceed to dispose this appeal with the following :

3) O R D E R

The appeal stands dismissed.

No appeal is provided against this order under the Rights to Information Act,2005.

Parties to be notified.

Announced in the open court.

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

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