

BEFORE THE GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji, Goa.

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

Appeal No. 21/SIC/2009

Shri Sanjeev Veling
Near Ganapati Temple,
Khandola –Goa.

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Appellant

V/s

- 1) The Public Information Officer,
The Mamlatdar of Ponda Taluka,
Ponda-Goa.
- 2) The Public Information Officer,
Dy. Collector & SDO, Ponda Sub Division,
Ponda –Goa.

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Respondents

Filed on : 19/05/2009

Disposed on : 21/09/2016

FACTS:

- a) The appellant herein, in exercise of his rights under section 6(1) of the Right to information Act 2005 (Act for short) by his 7 applications, all dated 11/07/2008 sought information from the PIO i.e. the Mamlatdar Ponda pertaining to Shri Ganpathi Devasthan of Kandola.
- b) PIO forwarded the said application to said Devasthan by its letter dated 21/07/2008 directing it to furnish the information sought by the appellant. A copy of the said letter was also send to the appellant intimating that the same is sent to said Devasthan.
- c) It is the contention of the appellant that as the said information was not received, he preferred first appeal to the Respondent No.2 which was disposed on 24/02/2009 directing the PIO to furnish the same within 30 days of the said order.

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- d) It is the contention of the appellant that in spite of the said order of the First Appellate Authority (FAA) the PIO failed to furnish the information and hence the appellant has approached this Commission by second appeal under section 19(3) of the Act.
- e) The parties were notified, pursuant to which they appeared. The parties filed written arguments.
- f) The appellant submitted that he has filed several applications which were forwarded to Devasthan committee. According to him the Devasthan committee was not responding to his appeal and he has approached the Mamlatdar who was directed to furnish the information by the FAA. The Appellant has further stated that, as the administrator of Devasthan, it is the PIO who has to see that the information is furnished. According to the appellant the PIO never asked for the status report of the said application. According to him all the information that is sought is supposed to be in the office of PIO and hence it is he who has to part the information. According to the appellant, as he was not furnished the information on time he is entitled for penalty.
- g) The PIO in his arguments filed on 12/08/2016 submitted that the information as was sought by the applications dated 11/07/2008 was not in his possession and hence was forwarded to said Devasthan and the appellant was directed to obtain the said information from said Devasthan. And hence according to PIO necessary action has been taken at his end.

The PIO has further argued that further time was sought by the Committee of the said Devasthan for furnishing the information which was objected by the Appellant and he was

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expecting the reply within 15 days. It is according to PIO that the managing committee of the said Devasthan furnished the information to one of his application dated 11/07/2008 and also information to his application dated 27/07/2008.

- h) The PIO in his argument has also challenged the applicability of this Act to Devasthan and has submitted that the Devasthan pertaining to which the information is sought is not a public authority as defined under section 2 (h) of the Act.
- i) In the course of the proceedings, when the appellant was asked whether he has received the information as was sought by him by his 7 applications dated to 11/07/2008 and 8th application dated 27/7/2008, he submitted that he has received the said information and that this Commission may consider only the question of penalty as may be levied on the PIO.
- j) In view of the above submission, we refrain from giving any findings or intervening for the purpose of furnishing information. This order therefore would deal only with the limited point whether the PIO is liable to be penalized as contemplated under section 20 of the Act.

2) FINDING:

a) In the present case the admitted facts are that the appellant has filed 7 applications on 11/07/2008 and the 8th application on 21/07/2008 seeking information. This information was pertaining to Shri Ganapati Devasthan Khandola. It is a undisputed fact that the said applications were referred to the managing committee of the said Devasthan to enable them to furnish the information to the appellant. This fact was also notified to the appellant .

b) The appellant herein does not dispute the fact that the said application was pertaining to another entity i.e. Shri Ganapati

Devasthan, Khandola. The fact that the said application were referred to the said concerned entity is also not in dispute. The only fact that is objected by the appellant is the delay that is caused in furnishing the information.

c) We do not find any irregularity in the action of PIO to refer the same to the concerned authority which he has done in exercise of his powers under section 6(3) of the Act. As we are deciding only the issue of penalty, which is provided under section 20 of the Act it is necessary to decide whether the delay is caused without any reasonable cause.

d) Section 20(1) of the Act which confers powers on the Commission for imposing penalty reads:

"20 Penalties (1) where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafiedely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or abstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

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Provided that the central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be."

Thus for invoking this penal action there should be a refusal to receive an application for information OR non furnishing information within time OR denial of request for information OR giving incorrect, incomplete, misleading information OR destruction of information OR obstruction in furnishing information.

e) A perusal of entire records show that the application which was received by PIO was forwarded to the concerned authority by him. Though there is delay on the part of the referee authority the same cannot be attributed to the PIO. Thus we find no ingredients as required u/s 20(1) of the Act and no justification to impose penalty.

In the circumstances we dispose the present appeal with the following:

ORDER

The appeal does not survive hence dismissed. Parties to be intimated. Proceeding closed.

Pronounced in open proceeding.

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