

BEFORE THE GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji, Goa.
CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

Appeal No. 22/SIC/2014

Shri Trajano D'Mello,
R/o. Opposite Peddem Sports Complex,
Mapusa, Bardez-Goa

.....Appellant

V/s.

1. Administrator of Comunidades,
Public Information Officer,
North Zone,
Mapusa, Bardez-Goa

..... Respondent No.1

Appeal Filed on: 21/02/2014

Disposed on: 18/07/2016

1. This second Appeal came to be filed by the Appellant, Shri Trajano D'Mello on 21/02/2014 against Respondent No. 1-Public Information Officer (PIO) Administrator of Comunidade, North Zone under section (3) of section 19 of the RTI Act 2005n (herein after referred to as RTI Act)
2. The fact leading to this second appeal are that the Appellant vide his application dated 11/10/2013 "has sought certain information at point No. 1 to 5 as stated there in the said application concerning the plots 16 of survey No. 389/1 of Village Socorro belonging to the Comunidade of Serula which was allotted to Shri Pramod Parulekar.
3. Respondent No. 1 PIO (Public Information Officer) by their reply dated 14/10/2013 informed the present Applicant that vide their letter dated 22/10/2013 his application was referred to the Comunidade of serula for necessary action as no records pertaining to said matter were available with their office and the Registrar of Comunidade of Serula interalia vide their letter dated 07/11/2013 has sought for

15 days time to search and verify the records of the Comunidade in the light of the information sought by the Appellant. The copy of the said letter of Office of Serula addressed to Respondent No. 1 PIO which is at annexure "B" was also enclosed alongwith above reply given to the Appellant.

4. Since the Appellant herein did not received the information sought by him within statutory period, the appellant approached the First Appellate Authority (herein after referred as FAA) on 06/12/2013. And the FAA passed an order on 10/01/2014 partly allowing the appeal and thereby directed the Respondent No. 1 – PIO to collect the information from the concern clerk of Serula and then to furnish the same to the Appellant within 20 days.
5. Since the Order of FAA was not complied and being aggrieved by the action of PIO in non furnishing of the information the Appellant approaches this Commission with the present 2nd Appeal on 21/02/2014 with the prayer for direction to furnish the complete information and to initiate action against the Respondent.
6. After notifying the parties the matter was listed on board and taken up for hearing. During hearing the Appellant was present in person. Respondent despite of due service of the notice opted to remain absent before this Commission. Despite of granting several opportunities Respondent No. 1-PIO failed to file his say and as such this Commission had no any option then to hear the arguments of the Appellant and then to proceed with the cases based on the material on records.
7. Arguments were advanced by the Appellant. I have considered the arguments of the Appellant and the material on record.

8. On scrutiny of the file it could be gathered from the order of first Appellate Authority that even though acting Secretary and APIO (Assistant Public Information Officer) was present during hearing, he submitted that he was directed to remain present for hearing and accordingly order may be passed. The casual approach of PIO is against the mandate of RTI Act. During the proceedings before FAA, the Respondent No. 1-PIO has not filed any reply nor made any appropriate submission. The same is the case in the present second Appeal also the Respondent No. 1 –PIO has not bothered to appear, nor filed appropriate reply nor made any due submissions. It is seen from the records that order was passed on 10/01/2014 by FAA and till date the same have not been complied with by Respondent No. 1- PIO . From the conduct of the PIO it can be clearly inferred that the Respondent No. 1 PIO has no concern to his obligation under the RTI Act. It is also cleared that the PIO has no respect to abide the order passed by his Sr. Officers. Irresponsible attitude of the PIO has further evident from the lack of participation in the present Appeal inspite of service.
9. Further the record also reveals that there is a delay in replying application under section 6 of RTI Act filed by applicant. The said application came to be filed on 11/10/2013 and reply has been sent to the appellant on 14/11/2013 much after stipulated period as contemplated under section 7 (1).

Further Section 6 (3) states that: Where an application is made to a public authority requesting for an information:

- (i) *which is held by another public authority; or*
- (ii) *the subject matter of which is more closely connected with the functions of another public authority,*

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

However from the reply of Respondent No. 1 –PIO dated 14/11/2013 given to Appellant, one could gather that said application was referred to communitade of Serula very late and as such Respondent No. 1-PIO failed to comply with section 6(3) of RTI Act in true spirit.

10. From the provisions of RTI Act it indicates that entire responsibility in providing information sought rest on PIO and noncompliance of mandate makes PIO liable for punitive action the PIO to always keep in mind that their service are taken by Government to help the people of state in particular and people of country at large. They should always keep in mind that objective and purpose for which the said act came into existence. RTI Act main object is to bring transparency and accountability in public authority and that PIO's are duty bound to implement the act in true spirit. The conduct of PIO here in appears to be suspicious and adamant vis a vis the intent of the Act in bringing transparency in the affairs.
11. It is apparent from the records that the Respondent No. 1 PIO has shown lack and negligence in his attitude towards discharge of his functions as PIO and has made persistent default in adoring to the instructions issued by the undersigned to remain present during course of hearing. The material on record also shows that the PIO-Respondent No. 1 did not take any diligent step in discharging responsibility under the RTI Act. The conduct of Respondent No. 1-PIO is highly condemnable.
12. In the circumstances considering the conduct of PIO I find that this is the case were the request of the Appellant for the grant of Penalty to be genuine as such it would be appropriate that he Respondent No. 1 PIO is directed to give the reasons as to

why this Commission should not impose penalty as prayed by the appellant .

13. In the above circumstances following order is passed
- a) Appeal is allowed Respondent No. 1-PIO is directed to provide information free of cost as sought by the Appellant vide his Letter dated 11/10/2013 within 20 days from the receipt of the order.
 - b) Issue notice to Respondent No. 1-PIO to show cause why cost/fine and disciplinary proceeding should not be initiated against him for his dereliction of duties
 - c) Issue notice to Respondent No.1 PIO to show cause why he should not be made to compensate the Appellant for the inconvenience hardship and mental agony caused to him
 - d) Respondent No. 1 is hereby directed to remain present before this Commission on 22/08/2016 at 3.30. p.m. alongwith written submission showing why cost/ compensation/ disciplinary action should not be imposed/initiated against him. If no reply is filed by the Respondent No. 1-PIO it shall be deemed that he has no explanation to offer and further orders as may be deemed fit shall be 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 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

