

GOA STATE INFORMATION COMMISSION

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

Appeal No. 76/SIC/2014

Smt. Bindu B. Asgaonkar,
Sony Niwas, H.No. 32, Ward No. 10,
Khorlim Goa, mapusa Goa.

..... Appellant

V/s.

1.The Public Information Officer,(PIO)
Mapusa Municipal Council,
Mapusa Goa .

2.The First Appellate Authority,
Directorate of Municipal Administration,
AndUrban Development,
Collectorate Bulding, Ground Floor,
Panaji Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 18/07/2014
Decided on: 01/12/2016

ORDER

1. The brief facts reading to the present appeal are as under.
 - a) the appellant Smt. Bindu B. Asgaonkar vide her application dated 20 March2014 had sought certain information in respect of her representation letter 31/12/12 on 10 points setout in the said application from PIO , Office of the Mapusa Muncipal Council, Mapusa Goa .
 - b) Being not satisfied with the reply of the Respondent No. 1 filed appeal before the First appellate authority who by an order dated 6th June 2014 dismissed the appeal .

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- c) Being aggrieved by the order of the Respondent No. 2 First Appellate Authority, the appellant have has filed the present second appeal under section 19(3) of the RTI Act .
 - d) By his appeal has prayed for direction to the Respondent No. 1 PIO to Furnish the information as also prayed for an action to be taken on PIO for penalty and compensation.
2. In pursuant to the notices Shri J.T. Shetye appeared on behalf of appellant and on behalf of Respondent No. 1 during initial two hearing and subsequently failed to appear. During initial hearing PIO Raju Gawas was present and subsequent hearing APIO Shri Vinay Agarvadekar appeared, who filed his reply on 13/4/16 enclosing the copy of the information which was furnish to the appellant in response to his RTI application on 17/4/14. As appellant was absent during the subsequent hearing nor represented by her representative, reply of the same could not to be furnished to her. Respondent No. 2 First Appellate Authority though served remain absent .
 3. In view of the continuous absence of appellant despite of giving opportunities, the commission felt that the appellant are not interested in contesting the proceedings.
 4. Heard the argument of the Respondents. During the arguments the APIO Shri Vinay Agarvadekar Showed his willingness to refurnish the information to the appellant by Registered A.D. and accordingly the said was furnished to the appellant vide their letter dated 13/10/16 and then he filed a compliance report enclosing the postal acknowledgment card. The respondent No. 1 further submitted that vide his said letter he has also informed the appellant regarding the subsequent date of hearing and requested the appellant for any clarification about information kindly to appear before the Goa State information commission on next date of hearing i.e. on 14/11/16 at 3.30p.m.

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5. The PIO in his arguments submitted that pursuant to the notice of this appeal the entire information have been furnished and nothing survives now. He further submitted that the appellant has filing several application on several occasion only for causing harassment.
6. An opportunities was awarded to appellant by this commission to verify the information and the report whether the entire information were sought by her is received to a satisfaction and to prove that there was delay in furnishing the information. Since the appellant failed to appear before this commission with a grievances with regards to information it is presumed that she is satisfied with the information provided to her.
7. I have perused the records including the appeal memo and the replies. I have also considered submission of the Respondent No. 1 PIO.

On going to the compliance report and the information furnished to the appellant in tabular forum on 13/10/16, it is found that the entire information as in terms of queries 1 to 10 are duly furnished /answered. It is seen from the records that the PIO has responded to the RTI Application within stipulated time. The respondent No. 1 PIO & Respondent No. 2 APIO has showing their willingness in furnishing the information. Vide letter dated 13/10/16 PIOs have clearly answered and replied all queries including the queries at serial No. 4, 7,8,9 and 10.

8. As information has been provided to appellant no intervention of the commission is required as far as prayer (1) is considered.
9. The appellant in his appeal memo at para 3 had submitted that with regards to query at serial No. 1,2 and 5 the incomplete information was furnished by APIO . However, the appellant by remaining absent and not substantiating their case have failed to exhibit that the incomplete information is provided at query No. 1,2,and 5.

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10. Prayer III and V of the appellant are a nature is a penal action either of granting 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 for penalty for failure in akin to action under criminal law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate".

11. Proving certain facts raised / alleged by appellant always rests on him under no circumstances burden shifts on the opposite party. In other wards the onus is on the appellant to provide that information furnished to him was incomplete and incorrect and information was malafidely denied to him.

By continuous absent of the appellant and an failure to produce any evidence, the appellant has miserably failed to discharge his burden. It appears that she is not interested in the present proceedings an as such not made herself available before this commission to substantiate her case.

12. Considering the above facts I do not find any malafide on the part of PIO in non furnishing the information sufficient to attract the penalty or compensation as provided under section 20 of the act. hence I am unable to consider to the request of the appellant vide his prayer (b). Prayer (a) has become redundant as the same is already offered to be furnished by the PIO by letter dated 13/10/16.

In the above circumstances the appeal stands dismissed.

Parties to be communicated alongwith the copy of order. No further appeal is provided under the Act against this order.

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Proceedings 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 against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

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