

GOA STATE INFORMATION COMMISSION AT PANAJI
Seventh Floor, Kamat Towers, Patto, Panaji –Goa.

Shri. Prashant S. P. Tendolkar,
State Chief Information Commissioner.

Complaint No.04/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa.

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Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village panchayat Sancoale, Goa.

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Opponent

Filed on: 22/01/2016.

Disposed on:03/08/2016

FACTS

- a) The complainant filed application dated 29/09/2015 addressed to the PIO of V.P. Sancoale, under section 6 of the Right to Information Act 2005(Act).
- b) PIO failed to furnish the information which was sought by the Complainant, within the prescribed time. The application was not responded to.
- c) Considering deemed refusal the complainant preferred first Appeal u/s 19(1) of the RTI Act before the FAA/BDO Mormugao Taluka, Vasco Goa vide appeal, dated 30/10/2015.
- d) The FAA/BDO Mormugao Taluka, Vasco Goa by order, dated 26/11/2015 directed the PIO to furnish the information to the complainant free of cost within 10 days from the date of order.
- e) Even after the order of FAA/BDO, Mormugao Taluka, Vasco Goa the PIO has failed to furnish the complainant the required information.

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- f) The complainant vide letter, dated 11/12/2015, exercising due diligence sent a Reminder to the PIO to furnish the information as directed by the FAA/BDO, Mormugao Taluka, Vasco Goa. In spite of said letter PIO failed to furnish the information.
- g) Being aggrieved by conduct of PIO the complainant has preferred this Complaint under section 18 of the Act.
- h) On being notified, the PIO filed reply on 1/6/2016. Vide said reply it is the contention of PIO that the information sought is misuse of law and not of public utility. According to PIO he has not rejected the information which was sought and that it was mandatory on the part of the complainant to make the payment of fees towards the cost of information and that the complainant failed to make the payment in spite of dispatching of the intimation to the complainant. The PIO annexed the copy of so called intimation. It is the contention of the PIO that in some matters the information sought has been already given and he annexed the copy of such information furnished. According to him the information is bulky and he require some time to furnish the same and that the complainant is trying to harass the respondent.

It is further according to PIO he is a public servant and has to perform other functions and that the intention of the complainant is to paralyze the working of the Panchayat. It is also the contention of the PIO that the complainant is involved in settling his rivalry and that the complainant has lodged several such complaints and has sought several information only to harass the PIO. The PIO in such circumstances prayed for dismissal of the complaint.

- i) Adv. G. Kamble appeared on the behalf of PIO whereas the complainant was represented by Adv. A. Naik. Arguments were

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heard. It is the contention of the complainant that he filed the application under section 6 on 29/9/2015 and having not received the information within time there was a deemed refusal. In the first appeal filed the First Appellate Authority has directed to furnish the information by order dated 26/11/2015. It is the contention of the complainant that inspite of reminder to the PIO by the complainant by registered A/D to comply with the order of FAA, the PIO has failed to furnish the information. Such a conduct of PIO is malafide according to the complainant, which has forced him to file the present complaint.

j) Learned Adv. Shri G. Kamble while supporting the contention of PIO submitted that the PIO has not rejected the information but has offered to furnish the same on payment of the necessary fees which was not paid by the complainant. According to him the complainant is misusing the provisions of the Act and is trying to settle his personal rivalry with the Sarpanch of the Village Panchayat. Adv. Kamble also took me to correspondence attached to the reply filed by the PIO and submitted that the present complaint is liable to be dismissed as not maintainable besides being filed in gross abuse of the provisions of RTI Act.

FINDING:

K) I have perused the records it is seen that the complainant, by his application, dated 29/09/2015 has sought certain information pertaining to purchase of computers as also regarding the existing computers. His requirement of information was running in (9) queries. According to the PIO, vide his reply filed here before me the letter for deposit of fees was sent to complainant. On perusal of

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the annexure to reply herein it is seen that all the said annexures pertain to some application of the complainant under the Right to Information Act but none of the said annexures pertain to the application dated 29/09/2015. It is also seen that none of the annexures call the complainant to deposit any fees towards information. I therefore find no relevancy in the said annexures with the application dated 29/09/2015 filed by the complainant which is the source of this complaint.

l) On account of discrepancy in the date of annexures, opportunity was given to the PIO to clarify the same by filing additional document, if any. On the subsequent date it was clarified by Advocate for PIO that there are no other documents in support of his clarification. The PIO had the opportunity to clarify the stand before the first appellate Authority, but to my surprise the PIO has not even bothered to remain present and put his say.

m) In the circumstances there is no evidence which I find on record to hold that the application dated 29/09/2015 was responded to by calling complainant to deposit fees. This appears to be an after thought defence.

n) The complainant being aggrieved by the deemed refusal of the PIO, had filed the appeal under section 19 (1) of the Act. The said appeal was not contested by PIO. The first Appellate Authority directed PIO to furnish the information. In compliance with the order of the FAA, it was the duty of the PIO to furnish the information. PIO did not bother to do the same. Moreover, the PIO also failed to comply with the said order of FAA inspite of notice by the complainant. Such conduct of the PIO Smacks malafides.

o) Even after filing of this complaint, contrary to his stand vide his reply herein, the PIO has failed to substantiate his contention. He

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has annexed certain letters and correspondence which are foreign to present proceeding. The entire sequence of events from the date of filing of the application under section 6 by the complainant till his representation to the commission, exhibit only malafide and leads to only conclusion that the PIO has failed in his duties as cast upon him under the Act, firstly by not responding within the time stipulated and subsequently by not obeying the orders of his superior officer inspite of the order and even of the inspite of the reminder of the complainant. The entire defense put forth by the PIO before this Commission is also not supported and does not inspire confidence.

p) Considering the above situation PIO has failed to show any justification in refusing the information to complainant. It is also noted that had the information been furnished in time, it would have saved the public money, as under the Act the complainant now is entitled for the same information free of cost. Thus the conduct of PIO, Prima facie calls for a penalty.

Taking in to the account the above circumstances and the loss caused to the public exchequer on account of the lapse on the part of PIO I am of the prima facie opinion that the PIO is liable to be penalized in addition to furnishing the information to the complainant. Hence, I proceed to dispose the present complaint with the following:

ORDER

Complaint is allowed. PIO shall furnish to the complainant the information as sought by him under section 6 of the Act vide his application dated 29/09/2015, free of cost within fifteen days from the date of this order.

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The PIO to show cause as to why action as contemplated under section 20(1) and/or 20(2) of the Right to Information Act 2005 should not be initiate against him. PIO to file written reply on 19/09/2016 at 10.30 am.

Parties to be intimated.

Pronounced in the open proceeding.

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