

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

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

Smt. Pratima K. Vernekar, State Information Commissioner.

Complaint No.21/SIC/2015

Shri Amol S. Sawant
H. No.647, Walkeshwar Wada,
Betim Bardez-Goa.

..... Complainant

V/s

The Public Information Officer,
Dy Director of Panchayats,
Junta House, Panaji –Goa.

..... Opponent

Filed on: 18/01/2016

Disposed on: 19/08/2016

FACTS

- a) The complainant by his application dated 16/01/2015 filed under section 6(1) of the Right to Information Act 2005(Act) sought certified copies of letter, dated 14/08/2000, 22/09/2000 and dated 15/06/2001.
- b) The PIO by his response, dated 24/02/2015 informed complainant that said documents are not found in the file.
- c) The complainant raised his grievance before first appellate authority (FAA) by first appeal dated 02/03/2015 and after hearing the matter disposed the same with order to PIO to furnish the information to the complainant as is available with him.
- d) According to complainant he had also applied vide second application on the same day i.e. dated 16/01/2015 to reveal the names of persons who are responsible for loss of file bearing case No.01/2002 which was in the custody of the Dy. Director also under.

...2/-

- e) According to complainant, respondent PIO neither filed FIR with police station despite of his request nor taken action on the persons responsible and accountable for the loss of file from his custody.
- f) Being so aggrieved for non compliance of the order of FAA the complainant has approached this forum with a second appeal.
- g) On notifying parties they appeared. The PIO filed reply on 17/03/2016 interalia submitting that the information was not found in office and that after order of FAA the file was reconstituted and furnished the information.
- h) The Complainant was heard. The PIO failed to make any submissions inspite of several opportunities.

2) FINDINGS

- a) We have perused the record and also have considered the submissions. The complainant by his application under section 6(1) of the Act filed on 16/01/2015 has sought for certified copies of three letters, dated 14/08/2000, 27/09/2000 and 15/06/2001. The said application was replied by the PIO on 24/02/2015. By the said reply it was informed to the complainant that the said letters are not found in the office of PIO. Thus the application under section 6(1) was responded to by the PIO for the first time on 24/02/2015, which is beyond the period prescribed under the Act. Thus there is apparently a breach of section (7) of the Act.
- b) On the same date i.e. on 16/01/2015 the complainant files an other application to the PIO stating that in response to some of his letters the PIO has brought to his notice vide letter, dated 05/03/2013 that the said file is under search and no sooner the file is traced the information will be provided to him.

- c) Thus from both the letters of the complainant, dated 16/01/2015 it is on record that by the letter dated 16/1/2016 referred at 2(a) above. The complainant was asking for certified copy of some letters which according to his information were not found in the file. By the second letter of same date referred at para 2(b) above he has sought for revealing the names of the person who are responsible for the loss of file.
- d) From the above correspondence it reveals that the complainant was firstly seeking the certified copies of certain documents which are not existing and at same breath wanted to have the names of the persons responsible for loss of file.
- e) The act, under section 2 (f) read with section 2 (j), contemplates that the information which can be sought is what is existing with the public authority. The Act does not contemplate creation of records by the transformation of PIO as an investigation officer thereafter conduct inquiry prepare the report and thereafter furnish the contents of the report to the seeker. Thus to our mind the second application dated 16/01/2015 which is referred to at para 2(b) above cannot be said to be an application under the Act.
- f) Coming to the first application, dated 16/01/2015 as which is referred to para 2(b) above, the complainant has sought for non existing information. No doubt certain further action like lodging of FIR, conducting inquiry were required to be filed by the concerned public office.
- g) Be that as it may, in the course of argument the complainant has submitted that in view of the passage of time the complainant is not interested in seeking information. Hence notwithstanding the fact that the aspect of furnishing of the information is also beyond the scope of complaint under section 18 of the Act we refrain from dealing with the grant of information.

- h) Now coming to the order of the FAA, it is seen that the said authority has entertained and appeal on 2/03/2015 in respect of the letter/response of the PIO vide his letter dated 24/02/2015. If we consider the background under which the original application under section 6(1) was filed by the complainant the same was pertaining to some information which was admittedly missing. Thus the order of the FAA in directing the PIO to furnish the information, when infact it was not available in view of the loss, appears to be purely mechanical.
- i) From the above and as is fairly submitted by the complainant that he is not interested in having the information, we hold that his request for seeking information need not be attended.
- j) However, considering the provisions of the Act, under section 7 thereof PIO is supposed to respond to the application of the seeker requesting information, within 30 days of the date of receipt of the application. In the present case the application was received on 16/01/2015 and hence was required to be responded on or before 16/02/2015. In the present case the PIO has responded by informing the seeker that is the complainant only on 24/02/2015 thereby causing a delay. Being so, the present complaint is required to be entertained under section 18(1) (c) of the Act.
- k) From the records it is also found that the file pertaining to the information sought is reported as missing. There is nothing on record to show as to what action is taken or initiated for such missing records.
- l) In the aforesaid circumstances we proceed to dispose the present complaint with the **ORDER** as under:

The complaint is partly allowed. The PIO is directed to show cause as to why action as prescribed under section 20 (1) and /or 20(2) of The Right to Information Act 2005, should not be initiated

him. PIO is also directed to initiate/cause to initiate action against the person responsible for missing the file by filing First Information Report to the Police Authority and inform the compliance to this commission.

The PIO to file his reply to the show cause as also inform the compliance of this order on his part to this commission on 27/09/2016 at 10.30 a.m.

Rest of the prayers are not granted. Parties to be communicated.

Pronounced in the open proceedings.

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

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

