

**GOA STATE INFORMATION COMMISSION**

Kamat Tower, Seventh Floor, Patto Panaji-Goa

**CORAM: Smt. Pratima K. Vernekar,  
State Information Commissioner.**

**Appeal 06/SCIC/2015**

Noelyn Santos,  
5-C Government Quarters,  
Patto Collony,  
Panaji Goa -403001

.....Appellant.

**V/s.**

1. The Public Information Officer,  
Mamlatdar of Bardez,  
Mapusa - Goa.
2. First appellate Authority.  
Dy. Collector & SDO,  
Mapusa Goa .

...Respondents

**Appeal filed on :- 8/01/2015**

**Disposed on: 20/04/2017**

**ORDER**

1. The Appellant Smt. Noelyn Santos by her application dated 21/1/2014 filed u/s 6(1) of Right to Information Act, 2005, sought certified copies of the succession deed under Mutation number 697 and relevant documents of survey No. 270/43 of Village Calanute Bardez Goa from the Respondent No. 1, PIO.
2. The said application was not responded to by the Respondent No. 1 Public Information Officer (PIO) herein within time, as such deeming the same as refusal, appellant filed first appeal to the Respondent No. 2, First Appellate Authority (FAA) herein on 7/5/2014.
3. The Respondent No. 2 FAA by order dated 25/9/2014, allowed the said appeal and directed PIO to furnish the information sought by the appellant vide his application dated 21/1/14 within 15 days free of cost from the date of disposal of the appeal.
4. Despite of order of Respondent No. 2 FAA, since the information was not furnished to her the appellant landed before this Commission by way of 2<sup>nd</sup> appeal under section 19(3) of Right To

Information Act 2005 on 8/1/2015 with a prayer for direction as against Respondent PIO to furnish him information at earliest and for invoking penalty provisions as also compensation.

5. Notice were issued to party. Pursuant to which the appellant appeared along with Advocate L. Farria and on behalf of Respondent PIO Shri Shailesh Kothawale appeared and filed reply on 1/03/2017 on behalf of Respondent 1 PIO interalia submitting that at a time of transfer of survey records the Gift deed was enclosed and not a succession deed and as such there was no succession deed in a such file. It is their further contention that information available with them i.e is a gift deed was provided to the appellant on 2/02/15. In support of their submission they have also relied upon the said letter bearing the acknowledgement of the appellant of having received the said information on 13/2/15. Copy of the letter dated 2/2/15 addressed to the appellant by then PIO was relied in support in their contention.
6. Arguments were advanced by the appellant as well as Advocate Priyanka Korgaonkar on behalf of Respondent No. 1, PIO.
7. The order of the first appellate authority reflects that both the parties were present during the hearing the said order was passed by Respondent No. 2 on 25/9/14 directing Respondent No. 1 PIO to furnish the information within 15 days free of cost from the date of the Order. The reply of the Respondent No. 1 PIO filed on 1/3/17 reveals that information was furnished to the appellant only on 13/2/15. There is a delay about 3 and ½ month in furnishing the information. It is seen from the records that the PIO has not furnished the information within time as it mandated u/s 7(1) of the RTI Act
8. The Advocate for the appellant submitted that the gift deed is provided to him on 13/2/15 by the Respondent No. 1 was not one which was sought by him u/s 6(1) of the RTI Act.
9. The PIO plays vital role in entire process of parting information under the Act. The PIO should always keep in mind the objectives for which the said act came into existence. Right To Information Act 2005 main objectives is to bring transparency and accountability. PIO is duty bound to implement the Act in true spirit. From the perusal of the said order of FAA one could gather that the Respondent PIO was also present before the FAA. The order of the FAA also reveals that case was heard on merit.

10. The conduct on the part of the Respondent No. 1 PIO is against the mandate of the Act. Irresponsible attitude of PIO is further evident in the lack of participation in the proceedings after filing the reply very causal approach is adopted by Respondent No. 1 . PIO which is condemnable.
11. From the provision of the act indicates that the entire Responsibility has sought rest on PIO and non compliance on mandate PIO liable for penal action. The material on records shows that the PIO did not take the diligent step in discharging the responsibility under the Act.
12. If the correct and timely information was provided to the appellant , it could have saved valuable time and hardship caused to appellant pursuing the said appeal before the different authorities. It is quite obvious that appellant has suffered lots of harassment and mental torture and agony in seeking the information. If the PIO had given prompt and correct information such harassment and detriment could have been avoided .
13. Considering the above conduct of Respondent No. 1 PIO, this commission prima facie comes to the conclusion that the PIO has not furnished the information within time as is mandated u/s 7(1) of the Act, so also PIO has failed to furnish the information even after the order of the FAA , which attracts penalty in terms of section 20(1) and compensation u/s 19(8) (b) of the RTI Act. However before imposing any penalty an opportunity required to be given to express his version. In the circumstance I pass the following order:-

### **ORDER**

- a) The appeal is partly allowed. No intervention of the Commission required for purpose of furnishing information
- a) Issue notice to Respondent No. 1 PIO to show cause as to why action for imposing penalty as provided in section 20(1) of the RTI Act 2005 should not be initiated against him.

- b) Respondent No. 1 PIO is hereby directed to remain present before this Commission alongwith written submission on 22/05/2017 at 10.30. a.m. showing why penalty should not be imposed on him.
- c) If no reply received from the PIO it shall be deemed that he has no explanation to offer, the further order as may be deemed fit shall passed.
- d) In case the PIO at relevant time, to whom the present notice is issued, is transferred, the present PIO shall serve this notice alongwith the order to him and produce the acknowledgement before the Commission on or before the next date fixed in the matter alongwith the full name and present address of the then PIO.

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

Issue notice to R. PIO to show cause as to why the action as contemplated u/s 20(1) of the RTI Act 2005 should not be initiated against him for not providing information at time. Returnable on -----

If no reply received from the applicant No. 1 it shall be deemed as they have no explanation to offer and further order as may be deemed fit shall be passed.

The present PIO shall serve this notice along with the order to the PIO and produce the acknowledgment before this Commission or before the next date to be fixed in the matter along with the memo containing full name and present address of the PIO.

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.

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