

GOA STATE INFORMATION COMMISSION

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

Appeal 100/SCIC/2015

Mr. Jerry Braganza,
Near St. Jeromes Church,
Mapusa, Goa.
Goa

.....**Appellant.**

V/s.

1.The Public Information Officer (PIO),
Administrator Comunidade North Zone,
Mapusa Goa.

2.The First appellate Authority,
Office of the Collector North Goa,
Panaji Goa.

----- Respondent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Appeal filed on: 07/09/2015

Decided on:10/05/2017

ORDER

1. The appellant Shri Jerry Braganza vide RTI application dated 25/09/2014 sought certain information from the Respondent No. 1 PIO office of the administrator of Comunidade, North Zone, Mapusa on 6 points as stated therein the said application. As the said application was not responded by the Respondent No. 1 PIO within time as stipulated under RTI Act deeming the same as refusal, the appellant prefer 1st appeal before the office of Collector of North Zone being FAA who is the Respondent no. 2 herein.
2. The Respondent no. 2 FAA by an order dated 6/2/15 allowed the appeal of the appellant and thereby directed Respondent No. 1 PIO to furnish the information sought from the Administrator of

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Comunidade North Zone by the appellant vide his application dated 25/9/2014 within a period of 15 days from the date of order.

3. As no information came to be furnish to him despite of the order of the First appellate authority the appellant being aggrieved by the action of Respondent No. 1 PIO approached this commission on 07/09/2015 by way of second appeal u/s 19(3) of the RTI act, 2005.
4. In this appeal the appellant had prayed for the direction to Respondent No. 1 PIO to furnish the information as sought by him and for invoking penal provision.
5. The notice was served on the appellant as well as the Respondent. Both the parties though served remained absent. In spite of granting opportunity to Respondent No. 1 PIO failed to filed his say.
6. In the absence of the specific defense or explanation of the PIO this commission proceeded for disposing the appeal based on the material on record .
7. On scrutiny of the file it is seen that to the application filed by the appellant u/s 6(1) of the act, the PIO has not bother to reply the same leave aside furnishing the information . In the first appeal filed before Respondent No. 2 observation has been made by the Respondent No. 2 first appellate authority in their order that opportunity were given to Respondent PIO to file reply and the respondent PIO opted not to file reply.
8. The same is the case in the present appeal . Despite of due service they have opted to remain absent nor filed reply substantiating their case. As such I hold that the PIO has no reply to be filed and averments made in the memo of appeal have not disputed .
9. It is seen from the record the order passed on 6/2/2015 by the Respondent No. 2 first appellate authority and till date the same have not complied with by the Respondent no. 1 PIO. From the

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conduct of the PIO it can be clearly inferred that the PIO has no concern under the RTI Act and have no respect to obide the order passed by the senior officer. Irresponsible attitude of PIO his further evidence in the lack of participants in this appeal inspite of service.

10. The PIO should always keep in mind the objective and purpose for which the said Act came to be existence . The RTI Act main object is to bring transfercy and accountability in public authority and the PIOs are duty bound to implement the Act into true spirit. The conduct of PIO herein appears to be suspicious and adamant vis-a-vis in bringing transfercy in the affairs.

11. The Supreme Court in State of U.P.V/s Raj Narain (1975) 4 SCC 248 observed :

“The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They entitled to know the particulars of every public transaction in all its bearings. The Right to know which is derived from the concepts of freedom to speech, though not absolute, is a factor which can, at any rate, have no repercussion on the public security. To cover with a veil of secrecy their common routine, denial is not in the interest of the Public. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of partied and political or personal self-interest or bureaucratic routine. The responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.”

12. The apex court in S.P. Gupta V/s Union of India AIR 1982 SC 149 has observed;

“ No democratic Government can survive without accountability and the basic postulate of accountability is that people should have information about the functioning of the Government, that an open society is the new democratic culture towards which

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every liberal democracy is moving and our society should be no exception. The concept of the open Government is the direct emanation from the right to know which seems to be implicit in the right of freedom of speech and expression guaranteed under Article 19(1) (a). Therefore, disclosure of information in regards to the functioning of the Government must be the rule, and secrecy an exception, justified only where the strictest requirement of Public interest so demands”.

13. It is apparent from the records that PIO is guilty of not furnishing the information within time specified. From the provisions of RTI Act it indicates that the entire responsibility in matters of providing information sought rest on PIO and non compliance of mandated makes PIO liable for punitive action. In the present case the PIO shown disrespect towards FAA and towards this Commission as he deliberately failed to remain present before respective authorities despite of due service. The material on record also shows the PIO, Respondent No.1 did not take diligent steps in discharging his responsibility under RTI Act
14. Considering above conduct of PIO this Commission comes to the conclusion that the PIO has not furnished information within time there by making him liable for penal section under the Act. Hence, this Commission hereby passes the following:

ORDER

The following order is passed.

- (i) The Respondent No.1 PIO hereby directed to furnish the information as sought by the applicant vide letter 25/09/2014 within 20 days from the date of receipt of the order.
- (ii) Issue notice to then PIO to show cause as to why penal action as contemplated u/s 20(1) and 20(2) of the Right to information Act, 2005 should not be initiated against him.

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(iii) As to why he should not pay compensation to the Appellant for inconvenience and hardship caused to the Appellant.

1. In case the PIO at the 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
2. The PIO Respondent No.1 shall personally present himself before this Commission on 02/06/2017 at 10.30 a.m. along with written reply to said notice. Order to be communicated to the parties.

Pronounced in open proceedings.

Sd/-

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