

GOA STATE INFORMATION COMMISSION

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

Appeal No. 123/SIC/2014

Shri Nishant Gurudas Sawant,
H.No. 1188,
Mahalakshmi Bandora,
Ponda Goa.

..... Appellant

V/s.

1. Public Information Officer(PIO),
Executive Engineer PWD,
Div XVIII Ponda Goa.

2. First Appellate Authority,
The Suptdg. Surveyor of works,
Public Works Department,
Altinho Panaji Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on:03/11/2014

Decided on: 15/05/2017

ORDER

1. The appellant, Shri Nishant Sawant submitted an application on 13/5/2014 under the RTI Act 2005, seeking certain information at queries number. 1 to 6 from the PIO ,Executive engineer, PWD, DIV XVIII (R) Ponda Goa.
2. According to the appellant this application was not responded by the Respondent PIO as such he filed first Appeal before the FAA, who is the respondent No. 1 herein on 10/07/2014. And the Respondent no. 2 First appellate authority by an order dated 04/08/2014 disposed the said appeal with the direction to furnish the copies of the information to the appellant only after making payment of requisite/ required fees by the appellant .
3. It is the case of the appellant that after the order of FAA he made letter to the PIO on 22/8/14 requesting him to intimate the

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amount of the requisite fees. It is further contended vide said letter it is also informed to PIO that cashier is not accepting the fees as such it was requested to PIO to give necessary direction to the cashier to accept the required fees .

4. It is the case of the appellant that the request felt in their deaf ears of the PIO, he against sent reminder letter on 29/10/14 and on 31/10/14 bringing to notice of the Respondent No. 1 PIO of having not received the information and that it has been denied to him as they will be expose for corruption.
5. On scrutiny of the records it is seen that the matter was taken up on 06/11/2014 by my predecessor and the roznama of the said day reveals that the PIO was directed to file a separate reply on the allegations of the appellant that when he approach the cashier to pay money, the cashier has not accepted and hence he could not able to pay. My predecessor also observed that the system operating in the PIOs office has some lacuna as such the PIO was directed to file his say as so how it has been rectified.
6. After the appointment of this commission, a fresh notice were issued to the parties. In pursuant to the notice appellant appeared in person. Respondent No. 1 PIO was represented only on 1/12/2016 by Shri Somnath Devidas and there after he opted to remain absent. Respondent no. 2 was represented by Shri Dilip Khavte .
7. No Reply came to be filed on behalf of Respondent PIO despite of giving them ample opportunity. Respondent No. 2 FAA filed reply on 21/2/2017.
8. On account of continuous absence of appellant and Respondent No. 1, this commission decided to dispose the matter after giving the Opportunities to both the parties to file their written synopsis within 15 days from 12/4/2017. As no written submission were filed by

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both the parties. I hold that the PIO has no reply to be filed and the averment in the appeal are not disputed as such commission decided to proceed with the matter based on the records available in the file.

9. I gone through the records, the appellant filed application on 13/5/14 u/s section 6(1) of the RTI Act , u/s 7 (1) of the RTI Act , the PIO is required to respond the same on or before 30 days . in the present case it is found that the PIOs has not responded to the said appellation of the appellant within a stipulated period either by furnishing the information or rejecting the request. It is also not a case of PIO that the information was furnished to the appellant or that he has responded to his application. On the contrary the appellant vide his various letters made after the FAA order showed his willingness to deposit the fees and to secure the documents.
10. Further glaringly it can be noticed that in the course of the proceedings that on receipt of the notice of the appeal, no explanation has been furnished for not providing information promptly. The records also shows that the direction issued by this commission on 6/11/2014 also has not been complied by the Respondent PIO.
11. It is appellant from the record that the respondent No. 1 PIO has shown lack and negligence in his attitude towards the discharge of his function as PIO.
12. Public authority was introspect that non furnishing of the correct and incomplete information lands the citizens before FAA and also before this commission which is socially abhorring and legally impermissible.
13. The Right to information act 2005, has been come into existence with the objecting of promoting transferracy and accountability in

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the working of the Government. It empowers the citizen to keep necessary vigil on the instrument of Governance and to make the Government more accountable to the Governed. The act is a big step towards making the citizen inform above the activity to the Government.

14. 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 are 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 of 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 private 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.”

15. 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 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

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must be the rule, and secrecy an exception, justified only where the strictest requirement of Public interest so demands”.

16. In view of above judgment and Considering the conduct of Respondent PIO and his in different approach to the entire issues I find some substance in contention of the appellant. In aforesaid circumstance I dispose the appeal with following order

order

1. Respondent no. 1 PIO/ Executive Engineer PWD Div XVIII is hereby directed to provide the information to the appellant free of cost as sought by him vide his application dated 13/05/2014
2. Issue notice to Respondent No. 1-PIO to show cause why cost/fine and disciplinary proceeding should not be initiated against him for his dereliction of duties
3. Issue notice to Respondent No.1 PIO to show cause why he should not be made to compensate the Appellant for the inconvenience hardship and mental agony caused to him
4. Respondent No. 1 is hereby directed to remain present before this Commission on 08/06/2017 at 10.30. a.m. alongwith written submission showing why cost/compensation/ disciplinary action should not be imposed/initiated against him. If no reply is filed by the Respondent No. 1-PIO it shall be deemed that he has no explanation to offer and further orders as may be deemed fit shall be passed.

Appeal stands dismissed .

Notify the parties.

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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