

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Appeal No. 63/2017

Shri. Pedrito Misquitta Alias
Shri. John Peter Misquita,
H.No. 234-B, Souza Vaddo,
Candolim, Bardez Goa.

..... Appellant

V/s.

1. The State Public Information Officer (PIO),
Office of Village Panchayat-Candolim,
Candolim Bardez, Goa.

2. The Block Development Officer (BDO)-Bardez Block &
First Appellate Authority under RTI Act 2005,
Mapusa Bardez Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 19/05/2017

Decided on: 16/11/2017

ORDER

1. The appellant Shri Pedrita Misquita by his application , dated 23/12/16, filed u/s 6(1) of The Right to Information Act 2005 sought certain information from the Respondent No.1,PIO of Village Panchayat Candolim under three points as stated therein in the said application and also sought inspection of inward and outward register from 1988 to 1991.
2. The said application was replied by PIO on 12/1/17 informing the appellant that the file concerning the information was not traceable and as the information as sought was not furnished, the appellant filed first appeal to the respondent No.2 being the first appellate authority on 13/2/2017.
3. The Respondent No. 2 FAA by order, dated 19/4/17 ordered the PIO to take necessary measures to trace the same from the record and to furnish the same information to the appellant within 7 days free of cost and in case the information is not traced, to conduct inquiry and fix responsibility on concern person and if need arises to file FIR for missing/untraced file.

4. The appellant being aggrieved by said response of PIO and order of FAA, has landed before this commission in this second appeal u/s 19(3) of the act on 10/5/2017 with the contention that the information is still not provided and seeking order from this commission to direct the PIO to furnish the information as also for other reliefs, including compensation.
5. Notices were issued to the parties, pursuant to which appellant was present in person. The Respondent no. 1 PIO was represented by Siddesh Prabhu Desai. The PIO on 26/10/17 filed a reply to the appeal. In his said reply the PIO has contended that he has gone through the records of the Panchayat and found that the information sought by the appellant is unavailable with Panchayat records .
6. The appellant filed his written argument on 31/10/2017. It is the contention of the appellant that Respondent have not conducted inquiry and fixed responsibility on a concerned person for a missing files. It was further contended since the order of the FAA was not challenged by PIO , therefore he is bound to provide the information. The appellant in his submissions has contended that non availability of records is not a defense to deny the information.
7. I have perused the records and also considered the submissions of the parties.
8. It is the contention of PIO that the records are not traceable. It is not the contention of the PIO that the said information is destroyed based on any order or as per the law or that records are weeded out as per the procedure. In this case it is only the lapse and failure of the authority to preserve the records which has lead to non traceability of the file. From the above it appears that the authority itself was not serious of preservation of records. Thus the entire action on the part of PIO and public authority appears to be casual. Such an attitude would frustrate the objective of the act itself.

9. Considering the above position and the file/ documents/ Registers is not traced till date, I am unable to pass any direction to furnish information as it would be redundant now. However that itself does not absolve the PIO or the public authority concerned herein to furnish the information to the appellant. An appropriate order therefore is required to be passed so that the liability is fixed and records are traced.
10. In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following :

ORDER

1. The Director of Panchayat shall conduct an inquiry regarding the said missing file and fix the responsibility for missing said file. The Director of Panchayat shall complete such inquiry within 3 months from the date of receipt of this order by him. The director shall also initiate appropriate proceedings against the person responsible as per his/ her service condition. A copy of the report of such inquiry shall be sent to the appellant and the right of the appellant to seek the same information from the PIO free of cost is kept open, after the said file is traced.
2. The Secretary of the Village Panchayat of Candolim is hereby directed to carry out the inventory of all official records and to preserve them in proper condition.
3. The Secretary of the Village Panchayat of Candolim is also directed to comply with provision of section 4 of the RTI Act, 2005.

Notify the parties.

Pronounced in the open court.

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

