

GOA STATE INFORMATION COMMISSION

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

Appeal No. 13/SCIC/2015

Shri Nishant G. Sawant,
H.No. 1188,
Mahalaxmi Bandora,
Ponda Goa.

.....**Appellant.**

V/s.

1 Public Information Officer (PIO),
The Executive Engineer,
W.D.XVIII(Road),
PWD, Ponda Goa.

..Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Appeal filed on:20/01/2015

Decided on:07/03/2017

ORDER

1. The appellant Shri Nishant Sawant in exercise of his right under section 6(1) of the RTI Act 2005 has sought for certain information as stated therein in his application dated 15/7/14.
2. The Respondent no. 1 PIO responded the same and vide their letter dated 13/08/2014 called upon the appellant for inspection of documents as according to PIO was not specific in nature and was in voluminous in nature.
3. Being not satisfied with the reply given by Respondent no. 1 PIO , the appellant preferred first appeal on 12/9/14 before Respondent No. 2 First appellate authority (FAA) and First appellate authority by an order dated 7/10/14 directed Respondent to allow the inspection of the documents to the appellant and to issue desired documents selected by appellant on payment of prescribed charges

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under RTI Act 2005 within 7 days from the date of receipt of payment .

4. Being aggrieved by the action of both the Respondents, the present appeal came to be filed before this commission under section on 19/1/15.
5. In pursuant to notice the appellant appeared in person Respondent No. 1 represented by Advocate Mandrekar and Respondent No. 2 represented by Shri Dilip Khavte.
6. Both the Respondents filed their respective replies on 11/4/16.
7. The Advocate for the respondent PIO submitted their reply may be treated as their argument. The appellant though had sought time to file his written arguments, inspite of given him opportunity, no written argument filed by the appellant hence I proceed to dispose the said appeal on the basis of the records available in the file.
8. It is the case of the Respondent PIO since the information sought by the appellant is not in specific nature for any particular work or works and since the records were maintained constituency wise and not village Panchayat wise, they have requested appellant vide their letter dated 13/8/2014 which was sent by Registered A.D. to inspect the available document and then to collect the copies of the selected documents on payment of Xerox charges. It is their further case that appellant till date have not made any attempt to inspect the documents inspite of sending appellant several reminders. It is further case of the Respondents that appellant in order to create false records inwards several fake letters dated 31/10/2014, 07/11/2014, 11/11/2014 and 01/12/2014 with their registry and he have never approached PIO for purpose of inspection and or that the appellant have never made attempt to select the documents or to make payment. It is their further contention that said letters were

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inwarded only to get information free of cost and for causing them mental harassment.

9. Coming to the other prayer which are the penal of action . the grant of penalty is akin to conviction in criminal proceedings and hence the element of the Criminal trail should be available for grant of penalty these observation are based on ratio raised on by Hon'ble High Court of Bombay at Goa in writ petition No. 205/2007, Shri A.A. Parulekar V/s Goa State information Commissioner and others .

"11.The order of penalty for failure is akin to action under criminal law it is necessary to ensure that the failure to supply the information is either intential or deliberate."

10. On scrutiny of the records it is seen that the Respondent No. 1 PIO in addition to his reply dated 13/8/2014 had requested the appellant vide their letter dated 27/8/14 to cooperate with their office by inspecting the documents so as to enable them to provide the information. Further in compliance of the order passed by the Respondent No.2 First appellate authority the PIO again had requested the appellant vide their letter dated 3/11/2014 to inspect the available document and to collect the copy of the selected document after payment of the Xerox charges. Again vide letter dated 12/11/14 had brought to the notice of the appellant the various RTI Applications wherein he had not carried out the inspection and collected the documents. Vide said letter it was further informed to collect the available information by paying the charges.
11. It reveals from the letter dated 4/12/14 addressed to the appellant by PIO it was once against requested him to inspect ,select and collect the information on payment of Xerox charges, as the information sought by him is not specific in nature. In the said letter it is also specifically denied that the cashier of the division at any time refused to collect the payment from him .

12. On perusal of the above letters, it could be gathered that the PIO had shown his willingness to furnish the required documents after the same is identified by the appellant. From the conduct of the Respondent No. 1 PIO it is seen that there was not intention either to hold any information or denied the information sought thereby by the appellant. The para 12 of the reply dated 11/43/2016 filed before this commission also reveals that they are still willing and ready to furnish the information till date only the appellant cooperate to inspect and select the documents and make such payment toward the information .
13. The Respondent No. 1 PIO have promptly responded to the application of the appellant filed u/s 6 (1) of RTI Act , and also showed his willingness to comply the order of the first appellate authority. The PIO was diligent in his duty under the RTI Act. on perusal of letter dated 12/11/14 made to appellant by the PIO one could gather that various letter were made by Respondent PIO to the appellant with regards to various RTI application and had requested time and against to inspect and collect the document after paying required fees, however that appellant had delayed in receiving the information inspite of several reminders.
14. In the above given circumstances I find that for two reasons relief of appellant of providing him free information cannot be granted. The very fact that PIO had volunteered to provide the information shows his bonafide and that he had acted reasonably and deligently. As I find that PIO has not faulted in any way. The records shows that appellant has avoided receiving the information in many cases and if the said order is to be given free of cost then the same would cause drain on public exchanger.

Which is not permissible under the law as the appellant himself has not cooperated with the PIOs in time.

15. In the above given circumstances the following order is passed

Order

Respondent No. 1 PIO to access the estimated cost of the information as available and communicate to appellant and the appellant to pay within 15 days the required fees and thereafter within 15 days the Respondent No. 1 PIO is hereby directed to issue the desire documents to the appellant.

The appeal disposed accordingly proceedings stands closed.

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