

GOA STATE INFORMATION COMMISSION

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

Appeal No. 54/2017

Mr. Sebastian Fernandes,
H.No.68/6 Pomburpa,
Bardez Goa.

.....Appellant

V/s

1. The Public Information Officer,
Dy. Director of Panchayats
Junta House 18th June Road,
Panaji – Goa.

2. The First Appellate Authority,
Director, Directorate of Panchayats,
Junta House, 18th June Road,
Panaji – Goa

....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 24/4/2017

Decided on:13/09/2017

ORDER

1. The appellant Shri Sabastian Fernandes by his application , dated 28/9/16 filed u/s 6(1) of right to information Act ,2005 sought information with regards to action taken on his letter dated 16/6/16 pertaining to misuse of article 66 of Panchayat Raj Act and also on illegal construction of trespass in survey no. 62/8A from the PIO of directorate of Panchayat who is the respondent no.1 herein .
2. As according to the appellant the information as sought was not furnished to him by the respondent No. 1 PIO within stipulated time, he approached the first appellate authority on 28/10/2016 who is the Respondent No.2 herein .
3. The Respondent No.2 FAA, by an order, dated 5/12/16 directed village Panchayat of Pomburfa to provide the copies of the site

inspection carried out by them pertaining to construction of bakery unit in survey no. 57/3 to the appellant within 15 days from the date of receipt of the order .

4. It is the case of the appellant that Despite of the order of Respondent No.2 FAA , no information came to be furnished to him , as such he was forced to approach this commission on 6/3/2017 by way of second appeal filed u/s 19(3) of the RTI Act .
5. In pursuant to the notice of this commission , the appellant appeared in person. Respondent no.1 PIO was represented by Shri K.D. Halanker .None was present on behalf of respondent no.2
6. Reply filed by respondent PIO on 13/09/2017 thereby contending that whatever available information with them is provided to the appellant vide letter dated 3/10/2016 copy of the said reply is furnished to the appellant .
7. It is the case of the appellant that they have not provided the information which was sought for but he has been furnished the copy of the memorandum dated 29/9/2016 which was not the subject matter of his RTI Application.
8. It is submitted by the APIO Shri K. D. Halankar that those complaints which were received by them were from applicant were referred by them to the BDO of Bardez on 6/7/2016 for taking necessary action and BDO was also directed to file compliance report to them . Since no compliance report of action taken is received by them, they has issued memorandum to BDO on 29/9/2016 for expediting the matter and for submission of action taken report by him. It is his further contention that till date no any compliance /action taken report has been filed by the BDO.
9. I have considered the records available in the file so also the submission of both the parties .

10. On perusal of the application filed u/s 6, one could gather that appellant wanted to know what action was taken on his above complaint. In other words he wanted to know the status of the said complaint. The PIO instead of informing him the outcome/status of his complaint, but provided him the memorandum which was not definitely sought by him. Further the PIO also did not bother to forward copy of the order dated 5/12/16 passed by the Respondent No.2 First appellate authority to the Village Panchayat of Pomburpha for its compliance and for furnishing the documents as were directed by respondent No. 2. There is nothing on record to show that respondent PIO had earlier transferred the said application u/s 6(3) of the RTI Act to the public authority who was holding the said information. The said conduct on the part of the PIO is condemnable and is against the spirit of the RTI Act.
11. Further on perusal of the order dated 5/12/16 passed by the respondent no.2 FAA, it is seen that the directions are given to the village panchayat of pomburpha to provide the information who was not even party to the said appeal. The respondent no.2 FAA has violated the principles of natural justice. There is nothing on record to show that PIO of village panchayat of Pompurfa was heard before passing such order. More so ever it is seen that appellant had sought for the information pertaining to survey no.62/8A and respondent no.2 FAA has directed to furnish the information pertaining to survey no.57/3. On account of continuous absence of respondent no.2FAA, no clarification could be obtained on the same.
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 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. The appellant who is a senior citizen have been made to run from post to pillar in pursuing his said application. If the correct and timely information was provided to the appellant , it would have saved valuable time and the hardship caused to him in pursuing the said appeal before the different Authorities. It is quite obvious that the appellant has suffered lot of harassment and mental torture and agony in seeking information under the RTI Act which is denied to him till this date. If the PIO has given prompt and correct information such harassment and detriment could have been avoided
14. In the above given circumstances, and since the appellant is also senior citizen in order to avoid further hardship to him in perusing his said application. I am of the considered opinion that ends of justice will meet with following directions .

Order

1. Respondent No. 1 is hereby directed to seek the said information as sought by the appellant vide his application dated 28/9/2016 from the office of BDO , Bardez Goa with in 7 days and to furnish the same to the applicant within 10 days thereafter.

The matter 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. Verneka)
State Information Commissioner
Goa State Information Commissioner,
Panaji-Goa

Ak/-