GOA STATE INFORMATION COMMISSION

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

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

Appeal No. 154/2016

Jawaharlal T. Shetye,
H.No. 35/A Ward No. 11,
Near Sateri Temple,
Khorlim Mapusa- Goa. **....Appellant**

V/s.

1. First Appellate Authority (FAA),
   Dy. Collector SDO –Bardez,
   Mapusa Goa .
2. Public Information Officer (PIO),
   Mamlatdar of Bardez (Madhu Narvekar),
   Office at Govt. Complex,
   Mapusa Goa. **....Respondent**

Filed on: 23/08/2016
Decided on: 29/05/2017

O R D E R

1. The brief facts of the case are that the Appellant Shri J. T. Shetye through his application dated 10/05/2016 filed under section 6(1) of the Right to Information Act, 2005 sought information with regards to Memorandum bearing No. DC/SDO/MAP/ILL/MISC/10519 dated 28/12/2015 issued by Dy. Collector and SDO Mapusa Sub-Division, Mapusa to the Mamlatdar of Bardez of Mapusa Taluka directing to initiate necessary action regarding cancellation of Residence Certificate bearing 050520093543/2489 issued to Channappa Gangappa Holepparmawar.

2. The said application was not responded by the Respondent No. 2, Public Information Officer (PIO) within the stipulated time as contemplated under the RTI Act, deeming the same as rejection, the Appellant preferred 1st Appeal before the Deputy Collector and SDO Bardez-Mapusa, Goa on 13/06/2016 being First Appellate Authority (FAA). As first appeal was not heard by Respondent No. 1 FAA nor any order was passed within the stipulated time, the appellant therefore approached this Commission on 23/08/2016 under

section 19 (3) of the RTI Act 2005. In this appeal the appellant prayes for the directions as against Respondent PIO to furnish him requisite information as sought by him, for invoking penal section under section 20 (1) and 20 (2) of RTI Act as against Respondent PIO and for directions as against both the Respondents for implementation of section 4(1)(a) and 4(1)(b) of the RTI Act 2005.

3. After listing the matter on the board, the same was taken up for hearing. In pursuant to the notice the appellant was present in person. Respondent No. 1 FAA was represented by Suhas Naik and Respondent No.2 PIO was represented by then PIO Madhu Narvekar. He was also directed to keep the present PIO present before this Commission during the hearing.

4. Despite of giving opportunities to both the PIO to file their respective replies, no replies, came to be filed on their behalf. As such, I hold that both the Respondents has no replies to be filed and the averments made in the Complaint are not disputed.

5. On account of continuous absence of both the Respondent the undersigned Commissioner has no any other opinion then to dispose present appeal on merits, based on the available records in the file.

6. I have gone through the records, the Appellant filed application under section 6(1) of the RTI Act on 10/05/2016 under section 7(1) of the RTI Act, the PIO is required to respond the same on or before the 30 days. In the present case it is found that the PIO is not Responded to the said application of the appellant within the said stipulated period either by furnishing the information or rejecting the request. It is not case of the PIO that the information has been furnished to the Appellant or that he has responded to his application. The PIO has not given explanation for not responding the said application. Thus averment made by the Appellant appears to be undisputed and unrepurtted by the PIO.

The record also shows even though the 1st appeal was filed by the Appellant before the Respondent No. 1 FAA the same was not taken up for hearing.

The said act on the part of above both the Respondent thus in contravention against the RTI Act.

The said Act came into to existence to provide fast relief, as such time limit is fixed under the said act to dispose the application under section 6(1) within 30 days and to dispose the 1st appeal maximum within 45 days. The acts on the part of both the Respondents are condemnable.

7. Further glaringly it can be noticed in the course of this proceedings that on receipt of the notice of this Appeal, no explanation or reason is furnish by the PIO for not providing information. It is apparent from the records that the Respondent No. 2, then PIO has shown lack and negligence in his attitude towards discharge of his function as PIO. Material on record also shows that the PIO, Respondent No. 2 did not take any deligent steps in discharging responsibility under the RTI (Right to Information) Act. *The PIO's to always keep in mind their services are taken by the Government to serve the people of state in particular and the people of country at large. They should always keep in mind that the objective and the purpose for which the said Act came into existence. The main object of RTI Act is to bring transparence and accountability in public authority and the PIO's are duty bound to implement the Act in true spirit.*

8. It is quite obvious that the Appellant have suffered lots of harassment and mental agony in seeking information. He has made to run from pillar to post, lots of his valuable time is being spent on seeking the information. If Respondent No. 1, then PIO had taken prompt and given correct information such harassment and detriment could have been avoided.

9. Public Authority must introspect that non furnishing of the correct or incomplete information lands the citizen before FAA and also before this Commission resulting into

unnecessary harassment of the common men which is socially abhorring and legally impermissible.

10. Considering the conduct of the of both the Respondents and their indifferent approach to the entire issue, I find some substance in the contention of the appellant. In the afore said circumstances I proceed to dispose this appeal with the following order :-

O R D E R

a) The Respondent No. 1 present PIO is hereby directed to give clear and unambigious pointwise reply to the Appellant in Respect to his RTI Application dated 10/05/2016 free of cost within 2 weeks from the date of receipt of this Order by Register Post.

b) Issue Showcause Notice to Respondent No. 1 Then PIO to show cause as to why action for imposing penalty, compensation and disciplinary action as provided in section 20(1) and 20(2) should not be initiated against him returnable on 22/06/2017 at 10.30. a.m. for not responding to the application of appellant as required u/s 7(1) of RTI Act.

c) If no reply received from the PIO it shall be deemed that he has no explanation to offer, the further order as may be deemed feet shall be passed .

d) 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.

e) The Authority i.e. Mamlatdar of Bardez is hereby directed to take necessary steps in the implementation of section 4(1) and 4 (b) of the RTI Act, 2005 with immediate effect and to report compliance.

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

Kk/-

Appeal 154/2016

1. Application dated 10/05/2016 sought information with regards to memorandum bearing No. DC/SDO/MAP/ILL/MISC/10519 dated 28/12/2015 issued by Dy. Collector and SDO Mapusa Sub Division Mapusa to the Mamlatdar of Bardez of Mapusa Taluka directing to initiate necessary action regarding cancellation of Residence Certificate bearing No. 050520093543/2489 issued to Channappa Gangappa Holepparmawar for your ready Perusual.
2. 1st Appeal 13/06/2016 approach this Commission on 23/08/2016