

GOA STATE INFORMATION COMMISSION

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

Complaint No.26/2017

Mr. Sushant Ray,
HW Showroom Shop No. G-003,
Supreme Colmorod Centre,
Colmorod, Navelim, Margao Goa.

.....Complainant

V/s.

1. Assistant Public Information Officer,
Police Inspector, Margao Town Police Station,
Margao Goa.
2. Public Information Officer,
Sub. Divisional Police Officer,
Near Municipal Garden, Margao,
Margao Goa.
3. First Appellate Authority,
Superintendent of Police South Goa,
Near Municipal Garden,
Margao Margao Goa. Respondents/Opponents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 17/07/2017

Decided on: 8/11/2017

ORDER

1. The present complaint came to be filed by Shri Sushant Ray on 14/7/17 against the Respondents for not complying with the order and direction issued by this commission in the order dated 16/3/17 passed in the second appeal bearing No. 58/15.
2. In pursuant to the notice issued to the Respondent Public Information Office (PIO), a reply came to be filed by Shri R. V. Raut Desai on 24/10/2017 alongwith enclosures interalia submitting that order dated 16/03/2017 which was

received by them on 12/6/2017 passed in appeal No. 58/2015 was complied with and the petitioner/Complainant was informed vide letter dated 22/6/2017. It was contended that copy of enquiry report dated 24/10/14 addressed to the Complainant was also sent to the Police Inspector, Margao Town Police Station to serve and to obtain acknowledgment . It was further contended that the same was return unserved as the Complainant was not residing at the given address. It was contended that twice the efforts were made to serve the said letter along with the inquiry report to the Complainant. It was also contended that they tried to informed on phone to the Complainant several times but the complainant did not responded to their phone call. It was further contended that registered A.D. dated 21/7/17 was sent to the Complainant and the same was again returned unserved as left addressed .

3. Vide reply dated 24/10/2017 it was also submitted that during inquiry in the complaint dated 3/07/2014, the complainant was informed vide letter dated 13/10/2014 that no criminal case was made out and no FIR can be registered. It was further contended despite of informing him the above facts he filed second appeal bearing No. 58/2015 and complaint before the Goa State information Commission. It was further submitted that the PIO /SDPO Margao have complied the order of this commission and as such imposing penalty does not arise.
4. I have scrutinized the records available in the file. The point arises for my determination

- i. Whether the order of this Commission dated 16/03/2017 have been complied ?
 - ii. Whether the PIO is liable for action as contemplated u/s 20 of RTI Act?
5. On perusal of the records it is seen that the entire defense of the PIO is resting on the contention that on the receipt of the order of this Commission by their office on 12/06/2017, which was submitted by forwarding letter dated 3/06/2017, they complied the said order and vide letter dated 22/6/2017 enclosing inquiry report dated 24/10/14 was sent twice for service to the Complainant. Since it is return unserved they even tried to send it through post which was again returned with endorsement "unserved". The PIO have also relied upon the letter dated 22/6/2017 bearing the endorsement & signature of P.C. and PI of MTPS on the reverse of said letter re-submitting the said to PIO as complainant was not residing at given address. The Xerox copy on the envelop was also relied upon in support of his contention showing that said was returned unserved by the postal authorities.
6. The Respondent herein also vide an application dated 31/7/17 which was filed with registry of this Commission have informed that they tried to comply the order passed by this Commission however the information could not be delivered on account of the reasons stated above.
7. The above fact have not been disputed and also have been substantiate by the documents.
8. In case of A.A. Parulekar (Supra) while arriving the findings as above it is observed by Hon'ble High Court at para 11 of thereof as under:

“11 unless and until it is borne on records that any officer against whom order of Penalty for failure is sought to be levied and had occasion *to comply with the order and had no explanation or excuse available worth satisfying the forum posses the knowledge of the order to supply information, as order of penalty cannot be levid* “

9. On account of continuous absence of Complainant this commission was not able to seek any clarification from him.
10. Subscribing the above view in the case of A.A. Parulekar and considering the facts of the present case I find that the explanation given by PIO is convincing and probable as such I find no ground to impose penalty against Respondents.
11. The right of the Complainant to collect the said inquiry report dated 24/10/2014 is kept open. The Complainant if so desire may collect the same from the PIO and do the inspection of the files pertaining to the complaint dated 3/7/2014 within 15 days from the receipt of this order. The PIO is hereby directed to furnish the copy of the same to the appellant if appellant approaches them.

With the above given direction the 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

Ak/-