THE GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji, Goa.
CORAM: Smt. Pratima K. Vernekar,
State Information Commissioner.

Complaint 16/2015

Elvina Barretto, H. No. 553,
Colsor, Galgibaga,
Cancona Goa ……Complainant
V/s

Public Information Officer (PIO)
in the court of Deputy Collector and
Sub Divisional Officer ,
Quepem Goa. …….Opponent

Appeal filed on:- 27/03/2015
Decided on:- 18/04/2017

ORDER

1. Complainant by her application dated 26/11/2013 filed under section 6(1) of Right To Information Act, 2005 sought copies of the documents of the Case No. LRC/CORR/39/95 alongwith order dated 27/02/1996 passed in the court of Deputy Collector and Sub Divisional Officer Quepem-Goa from the Respondent No. 1 PIO Office of the Deputy Collector at Subdivision Officer, Quepem-Goa.

2. The said application was not responded by the Public Information Officer (PIO) within time as such deeming the same as refusal the Complainant filed 1st appeal with the additional Collector (I) South Goa District, at Margao on 15/12/2014.

3. The First Appellate Authority (FAA) by an order dated 18/02/2015 allowed the said appeal and directed PIO to provide information to the Appellant within 30 days free of cost.

4. Since the order of FAA was not complied by Respondent PIO, the Complainant has therefore approached this Commission by way of Complaint under section 18 of the RTI Act on 27/03/2015 with the prayer for providing information as sought by her vide her application dated 26/11/2013 and for further relief.

5. The parties were duly notified. In pursuant to the notice the Complainant was present in person. The present PIO Shri Prashant

Shirodkar appeared and filed his reply on 6/03/2017, interalia submitting that the Complainant was already informed by their letter dated 30/01/2014 that the file wherein the parties to the case are Smt. Victoria Barreto V/s Smt. Marcelina Fernandes are not traceable in their Office. It was further contended that the certified copies of the file bearing No. LRC/Corr/39/95 having parties Smt. Manuelina D'Costa V/s Alexina Fernandes were collected by the Complainant on 20/10/2014.

Vide their said reply they also admitted that the 1st appeal was filed by Complainant before the FAA which was Registered as case No. RTI/29/AC-I/2014/1977 which was disposed off by FAA vide order dated 18/12/2015 there by directing them to provide information.

6. It was also contended by them that in compliance of the order of FAA, the PIO vide his letter dated 2/04/2015 have requested the complainant to carry out the inspection of the said file so as to enable them to issue the copies of the required documents to the Complainant and accordingly the Complainant inspected the file on 7/04/15 and collected documents on 10/04/2015. However nothing supporting documents have been placed on record by the present PIO.

7. Since present PIO Shri Prashant Shirodkar was not officiating as PIO when the application under section 6(1) was made and when order was passed by FAA he was directed to keep the then PIO present and to file appropriate reply to the Complainant substantiating his case.

8. A letter dated 16/03/2017 addressed to Ajit Panchawadkar by present PIO Prashant Shirodkar was filed in the Registry of this Commission intimating then PIO Shri Ajit Panchawadkar to remain present before this Commission and to file his appropriate say.

9. Inspite of intimating date of hearing to then PIO Ajit Panchawadkar he remained absent without any justification before this Commission nor any reply was filed by him substantiated his case. Opportunities were given to him to file his reply to the said Complaint despite of that he failed to file any reply.

10. Considering the above circumstances, I hold that then PIO Shri Ajit Panchawadkar has no reply to be filed. And that the awarements made in the Complaint are not disputed by him.

11. On Account of continuous absence of the Respondent then PIO the undersigned Commissioner has no any other option then to decide the present Complaint on merits based on the available records in the file.

12. Complainant also submitted her written synopsis on 29/03/2017 where in she has contended that there was delay in providing the information to her and the said was done in order to manipulate the records there by illegally transferring the Victoria Barretos right to another persons name. And she prayed for inquiry into the delay in providing information.

13. I have gone through the records, the Complainant filed application under 6(1) of the RTI Act on 26/11/2013. The PIO is required to respond the same on or before 30 days. In the present case it is found that the PIO has not responded the said application of the Complainant within said stipulated period either by furnishing the information or rejecting her request. The records shows that the application of the Complainant was responded by then PIO only on 30/01/2014 as such there is delay in responding the said application.

14. The then PIO has not given any explanation for not responding the said application in time. The letter dated 3/01/2014 relied by the Complainant also reveals that she had again informed the PIO that she has not received the information.

15. Vide order dated 18/02/2015 Respondent No. 2, FAA had directed Respondent NO. 1 PIO to furnish the information within 30 days. According to the Opponent themselves the information came to be furnished only on 10/04/2015. Then PIO has also not given explanation for not coplying order of FAA within time.

16. *Section 18 of the act reads:-*

Under section18 Powers and functions of Information Commission – (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State

Information Commission, as the case may be , to receive and inquire into a complaint from any person,-

(a) Who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer , as the case may be either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information officer as the case may be has refused to accept this or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section 91) of section 19 or the Central Information Commission or the State Information Commission, as the case may be .

(b) **Who has been refused access to any information requested under this Act**;

(c) **Who has not been given a response to a request for information or access to information within the time limit specified under this Act**;

(d) Who has been required to pay an amount of fees which he or she considers unreasonable;

(e) Who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) In respect of any matter relating to requesting or obtaining access to records under this Act.

17. Thus the Act empowers the commission to inquire in the complaint which involves only the cases as contained at clauses (a) to (f) above

18. It is quite obvious that the Appellant have suffered lots of harassment and mental agony in seeking information. She had been made to run from pillar to post, lots of her valuable time is being spent on seeking the information.

19. 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 man which is socially abhorring and legally impermissible.

20. In the above given circumstances I find that this is fit case to impose penalty on Then PIO, Shri Ajit Panchawadkar.

21. As such the present Complaint is disposed with following:-

Order

a) The Then PIO Shri Ajit Panchawadkar is herein shall pay Rs. 5000/- as penalty.
b) The penalty of Rs. 5000/- shall be deducted from the monthly salary of the Mr. Ajit Panchawadkar in two equal installment and deduction of the penalty shall start from the salary of the month of May 2017. And the same shall be credited to the Government Accounts with written intimation to this Commission.
c) Copy of the order to be sent to the Director of Accounts South Goa , Margao and to the Collector of South Goa at Margao for information and implementation.
d) The present PIO shall serve copy of this order to then PIO Shri Ajit Panchawadkar.

Pronounced in open proceedings. 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

Kk/-