

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

CORAM : Shri Prashant S.P. Tendolkar,
State Chief Information Commissioner,

Complaint No.54/2016

Narayan D. Naik
C/o Datta N. Naik,
H. No.278/1 (3),
Sanvarfond, Sancoale-Goa. Complainant.

V/s

1) Mr. Arjun S. Velip, (PIO)
Village Panchayat, Sancoale-Goa.
2) Narayan D. Azgaonkar (PIO,
Village Panchayat, Cortalim –Goa.
3) Concerned V. P. Secretary,(PIO),
Village Panchayat, Chicolna Bogmalo-Goa.
4) Concerned V. P. Secretary, (PIO),
Village Panchayat, Majorda-Goa.
5) Sachin P. Naik (PIO),
Village Panchayat,
Nagoa-Goa. Respondents

Filed on 17/11/2016

Decided on: 29/06/2017

1) On the complaint filed by the complainant, this Commission has issued notice to the respondent PIOs to show cause as to why action as contemplated u/s 20 and/or 20(2) should not be initiated against them.

2) Pursuant to said notice the PIO of village Panchayat of Cortalim, Village Panchayat Verna, filed their reply.

3) I have perused the records. On going through the same and notwithstanding the reply filed by PIO, I find that the entire proceedings has resulted in miscarriage of Justice.

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4) The original application filed by complainant u/s 6 (1) was seeking the records from the office of BDO pertaining to the records it has of the Panchayat under its jurisdiction. Hence the PIO office of BDO was required to furnish the information as per its records. The application as is worded reads "Pertaining to all Village Panchayat offices that come under your jurisdiction."

Thus the information was sought from BDO pertaining to the various panchayats. The complainant had not sought for information held by such Panchayats but as held by BDO.

5) The BDO by misinterpreting scope of section 6(3) of the Act, transferred the copies of said application to various panchayats. In fact said sections 6(3) can be invoked only if information, which is sought, is not held by it and held by other Authority. In the instant case as the BDO has superintendence over the functioning of Panchayats and the works taken by such respective panchayats, such information was sought as was held by BDO. If the said information was held by BDO the same could have been furnished, by BDO itself.

In the present case it appears that the BDO by expanding the scope of section 6(3), has tried to collect the information from panchayats. He also failed to note that the information was voluminous and vague and in collating the information would result in drain on public exchequer.

6) Coming to the first appeal, I find that the First Appellate Authority, incidentally the B.D.O. himself, had issued collective notice to PIOs of all Panchayats. The said notice has not been acknowledged by the PIO nor it bears inward entry.

Moreover in the order passed the FAA does not confirm having served the notice on PIO and on the same date disposes

the appeal holding that the PIO have failed to comply with section 7(4) of the act and has ordered the PIO of all the Panchayats to furnish the information as sought.

7) Infact before issuing such direction the FAA ought to have concluded for himself that the PIO to whom the application was transferred, inspite of having the information, had failed to furnish the information as required u/s 7(1). Such a finding is missing. While dealing with the appeal the FAA ought to have given proper opportunity inspite of bringing them in common proceedings. The entire proceedings before FAA have resulted in mis joinder of parties.

8) The PIOs have filed replies. However, such replies to my mind are redundant as the proceedings itself right from the date of transfer of the application were void ab initio, due to mis joinder of parties as also mis joinder of causes of action. Such proceedings if at all entertained would lead to misuse of the RTI Act 2005. The act cannot be used as a tool for oppression of the PIOs. The gesture of the complainant in seeking the information as sought herein, which is vague also does not inspire bonafides.

9) In the circumstances I find no grounds to proceed with the complaint as no case is made out under section 18 of The Right to Information Act 2005 and the same is required to be dropped.

In the circumstances, the notice, dated 06/03/2017, is hereby withdrawn. Proceedings closed.

Notify the parties.

Pronounced in the open proceedings.

Sd/-
(Mr. Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa