

GOA STATE INFORMATION COMMISSION

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

Appeal No. 189/2016

Shri Umakant Falgune Tari,
H.No. 1043,
V.P. St. Estevam Jua Tonca Wada,
St, Estevam Tiswadi Goa.

..... Appellant

V/s.

1. Shri P.B. Kankonkar,
Public Information Officer,
Village Panchayat St. Estevam,
Post St. Estevam Tiswadi Goa.
2. Shri Mahesh H. Kedar,
First Appellate Authority,
B.D.O-Tiswadi, Junta House, 6th floor,
4th lift, Panaji Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 16/09/2016

Decided on: 12/05/2017

ORDER

1. The appellant, Shri Umakant Tari submitted an application on 13/2/2016 under the RTI Act, 2005 seeking certain information as stated therein in the said application from PIO Office of the St. Esteve Village Panchayat . The said application was sent by post by the appellant which was recived by the Respondent PIO on 16/2/2016 .
2. The said application was responded by the PIO on 20/4/16 thereby informing that the documents regarding House No. 894 in the name of Gangadhar Tari are not in office records and his owner is dead. By the said letter it was also informed that the House no. 108/3 Jua Toka vado h. 894/1 was newly constructed by Narendra Volvoiker in form VII in 1999 to 2008 which was constructed on undivided plot of land of ancestor property.

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3. The appellant was not satisfied by the reply of PIO filed first appeal before Block Development Officer, being FAA, on 18/5/16 and the respondent No. 2 FAA (FAA) vide order dated 16/6/2016 directed the PIO to furnish the point wise reply to the RTI Application of the appellant dated 13/2/16 within 15 days from the date of order directly to the appellant free of cost under intimation to them. In the said order observation has been also made by the FAA that the reply under section 7(1) was not in proper format i.e. it has not been addressed to appellant nor it has been replied by signatory in the capacity of PIO of the village Panchayat Sant Esteve. It is also further observed that the said reply was not given within a prescribed time limit under the RTI Act. It was also observed by the FAA that the point wise reply was not furnished by the Respondent PIO and in this background the said order was passed.
4. It is also the case of the appellant that after waiting for 15 days from the date order of First appellate authority since the information was not furnished to him he filed a letter dated 1/7/2016 to the FAA informing him that he had not received any point wise reply to his RTI application.
5. Since despite of same as no information came to be furnished to him, the appellant approached this commission by way of present second appeal on 16/9/16 . with a prayer for invoking penal provision as contemplated u/s 20(1) and 20(2) of RTI Act 2005,as against the Respondents .
6. In pursuant to the notice appellant appeared in person Respondent despite of due service was absent without justification respondent No. FAA represented by Manish Kedar.
7. Despite of giving the opportunities to Respondents to file their say they failed to file any reply.

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8. Considering the above circumstance I hold that respondent no. 1 PIO have no reply to be filed and the averments made in the memo of appeal are not disputed.
9. On account of continuous absent of Respondent the under signed commission has no other option to decide the matter on the available records in the file .
10. The Appellant also filed his application dated 31/3/2017. The copy of the same could not be furnished to the Respondent No. 1 on account of his absent.
11. It is the grievance of the appellant that he has frequently visited the office of PIO on 24/2/2016, on 27/2/2016, 15/3/2016 and on 4/4/2016, for making inquiries of his RTI Application despite of same the information was not finished to him on one or the other ground. It is his further grievance that the Respondent PIO was never serious about the RTI work and took 69 days to respond to his RTI Application. It is his further grievance that the office records of St. estevam Village Panchayat have not been kept properly. It is his further contention that Respondent No. 1 PIO has filed not correct reply to the First appellate authority on 31/5/2016 and the appellant has categorily disputed of the statement of responder PIO the inspection of the file was given to the appellant on 11/4/16 .It is his further contention that at the time of inspection only one documents that the house tax record was shown to him and that the Respondent PIO has denied to show the house construction permission record in village Panchayat office. In this back ground the appellant has sought for penalty as against then PIO Shri P.V. Kankonkar.
12. I gone through the records. The appellant filed application u/s 6(1) of RTI Act on 13/2/16 which was received by the PIO by post on 16/2/2016. U/s 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

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the PIO has not responded the said application of the appellant within the said stipulated period either by furnishing the information or rejecting the request. It is also not the case of the PIO that the information has been furnished to the appellant or that he had responded to his application . The PIO has also not given explanation for not responding for the said application.

Further it is seen from the record that the order is passed by the FAA on 16/6/2016 and till date the same had not been complied with by the Respondent No. 1 PIO.

13. From the conduct of the PIO it can be clearly inferred that the PIO has not concern to his obligation under the RTI. It is also clear that the PIO has no respect to abide the orders passed by his senior officer. Irresponsive attitude of the PIO is further evident from lack of participation in this appeal inspite of service PIOs plays a vital role in the entire process of parting information under the Act. The conduct of PIO herein is condemnable. PIO should always keep in mind that their services are taken by Government to help the people of state in particular and people of country at large. They should always keep in mind that objective and purpose for which the said Act came into existence. RTI Act main object is to bring transparency and accountability in Public authorities and that PIOs are duty bound to implement the Act in true spirit. The conduct of PIO herein appears to be suspicious and adamant vis-à-vis the intent of the Act in bringing transparency in affairs.
14. In the circumstances considering the conduct of respondent No. 1 PIO with regards to the application dated 13/2/16 I find this is the fit case where the request of the appellant for the grant of penalty and compensation to be genuine, as such it would be appropriate that the Respondent No. 1 PIO is directed to give reason as to why this commission should not impose penalty and compensation as prayed by the appellant.

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15. The records shows that the Respondent No. 2 FAA has disposed the said appeal within stipulated time as contemplated under section 19(1) of RTI so also promptly intimated the decision to the appellant. It is pertinent to note as per the provision of RTI act, only the PIOs can be penalized u/s 20 and not the first appellate authority. In the present case I do not find any fault on the conduct Respondent no. 2 First appellate authority.

The present appeal is disposed with following order

Order

- a) The present PIO is hereby directed to comply with the order passed by Respondent No. 2 first appellate authority in respect application dated 13/02/2016 within 15 days from the receipt of the order.
- b) Issue showcause to the Respondent PIO, Then PIO P.B. Kankonkar as to why the penal action should not be taken against him for not responding application under section 6 (1) of RTI Act within time and for not furnishing the information despite of direction of Respondent No. 2, FAA
- c) Respondent No. 1 is hereby directed to remain present before this Commission on 08/06/2017 at 10.30 a.m. alongwith written submission showing why penalty should not be imposed on him. If no reply is filed by the Respondent No. 1, PIO it shall be deemed that he has no explanation to offer and further orders as made deemed feet shall be pass.
- 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.

Pronounced in open proceedings.

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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