

GOA STATE INFORMATION COMMISSION

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

Penalty No. 58/2016
In
Appeal 136/SIC/2015

Mr. Clifford T.D'Souza,
H.No. 259/1,S-1,Serenity,
Ghorbhat Arpora,
Bardez Goa.

.....**Appellant.**

V/s.

1. Public Information Officer (PIO),
(Mr. Rui Cardoso),
Village Panchayat Secretary,
Village panchayat Arpora Nagao,
Bardez Goa.
2. The First Appellate Authority(FAA),
Block Development Officer,
(Mr. Bhiku L.Gawas),
Block development office ,
Mapusa Goa.

.. ..**Respondents**

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 27/06/2017

ORDER

1. While disposing the above appeal, by an order dated 13/12/16, this commission had directed the PIO to furnish the entire information to the appellant as sought by him vide his application dated 22/4/15 free of cost from the date of the receipt of the order. In the said order this commission also issued notice u/s 20(1) and 20(2) of RTI Act ,2005 against Respondent No. 1 PIO, village Panchayat Arpora, Nagoa, Bardez ,Goa, to showcause as to why penalty and disciplinary action should not been imposed/ initiated against him.

2. The showcause notice dated 25/1/17 was issued to Shri Rui Cardoso ,Secretary Village Panchayat Arpora, Nagoa, Bardez ,Goa.
3. In pursuant to the said notice the appellant was present in person. And behalf of Respondent PIO Shri Rui Cardoso , Advocate Morazkar appeared and filed replied to showcause noitce on 3/4/17,thereby enclosing the forwarding letter dated 8/2/17 by which the said information was furnished to the appellant. The copies of the information furnished to the appellant was also annexed to the said reply.
4. The declaration was also filed by appellant on 22/2/17 and also affidavit was filed by appellant on 13/4/17. The copies of the same were furnished to the Advocate of Respondent PIO .
5. The written argument were also placed on recorded on behalf of Respondent PIO on 4/5/17 by Advocate Rameshweri Morazkar. Oral Argument were advanced by the appellant.
6. It is the case of the appellant that the information at point No. 1(a)only has been furnished to him in pursuant to the order of this commission and rest information have not been furnished to him at all appellant further submitted that information at point No. 1(a) which came to be furnished to him is also not correct and incomplete. He Contended that tendered cost appearing in the reconstructed statement does not match with the copies of the works order submitted by the PIO by his letter dated 15/5/15 . It is his further contention that work listed at serial No. 5 which pertains to construction of drain the net amount is shown higher then the actual cost in the reconstructed statement. It is his further contention that in the actual cost of the column of the reconstructed statement provided to him by PIO vide letter dated 8/2/17, the PIO has shown the total as Rs. 2706878.45 and whereas the actual total amounts to 28,37,043.45. It is his further case that Respondent PIO has furnished him some of the information pertaining to year 2010 to 2011 where as he had sought

for the information pertaining to the financial year 2011 to 2012. He substantiated his case by pointing out information furnished to him at serial No. 1. It is his further contention that the public drain was constructed in Ghorbhat Arpora in July 2011-12 and despite of being same recorded with the Panchayat records the reconstructed statement does not content any reference to this drain but include items which was not completed in the financial year 2012 . As such it is the case of the appellant that despite of the order of this commission the Respondent PIO submitted incorrect and misleading information to the him.

Appellant also contended that PIO has not submitted information to him as was sought in para 1(b), 1(d), 2(a) and 2(c) of his RTI Application dated 22/4/2015.

It is the further contention/submission of the appellant that PIO has not provided him the certified copy of the resolution of the handwritten minutes of the panchayat so also the copies of invoices pertaining to the works .

It is his further contention that the PIO has deliberately with malafide intentions have provided him wrong information . He further submitted that such acts on the part of the PIO are persistent and he invited my attention to the penalty proceedings No. 44/14 ; Peter D'Souza V/s Village Panchayat Arpora wherein this Commission has passed on order imposing penalty of Rs. 5000/- on PIO Shri Rui Cardoso. He further contended that Respondent has to be dealt with iron hand so that it would act as deterrence for all the like minded PIOs.

In brief it is the case of the appellant that incomplete and incorrect information provided to him despite of the order to this commission and on that ground he has sought for penal provision as contemplated of RTI Act 20(1) and 20(2) and for lodging penal complaint u/s 166 of the Indian penal code for defiance of the commission orders.

7. The Respondent PIO by their reply contended that whatever information available with them have been furnished to the appellant
8. I have considered the records available in the file and also the submission of both the parties.
9. On verification of statement showing the details of the works exhibited during the year 2011-12, it is seen that the work shown at point No. 1 does not pertain to the year 2011 to 2012. The said information is furnished with regards to previous year. The information pertaining to point No. 5 it is seen the net amount is shown more than the actual cost.
10. There is also nothing placed on record by respondent PIO to show that information at point No. 1 (b) 1(d) 2(a) and 2(c) have been furnished to the appellant by him .
11. It is a known procedure that activities taken by the Panchayat have to be approved first by way of resolution by the Panchayat board and the same has to be recorded in their minutes books. The appellant has produced on record the hand written copy resolution / minutes books as such it was the duty of PIO to furnish the same in the form in which it exists. The respondent PIO is silent on that aspect.
12. The statement of the appellant made by way of declaration and affidavit have not been disputed and rebutted by the Respondent. The Respondents PIO have also not assigned any reasons for denying the said information which are in the form of resolution and invoices / bills .
13. The available records shows that incorrect information was furnished to the appellant at point 1(a) and that rest information was not furnished by the appellant despite of the order of this commission. The Respondent PIO has not also taken any efforts to furnish the same despite of bringing to notice of the Advocate of Respondent of not having furnished the complete information during the present proceeding. The record also shows that PIO has not complied with the order of the first appellate authority within stipulated time. Nor

appeared and file any reply in appeal proceedings 136/15 despite of giving opportunity. The records of the Penalty proceeding No. 44/14, Peter Paul D'Souza V/s Rui Cardoso also shows that the Respondent Rui Cardoso despite of due service of notice also did not bother to appear nor filed reply to show cause notice. In the said proceedings also the order of Commission dated 7/2/2017 passed in the appeal proceedings 7/14 were also not complied by the Respondent Rui Cardoso and the said fact was affirmed by the appellant Peter D'Souza on oath by way of affidavit. The conduct of the Respondents appears suspicious and adamant vi-a-vis the intent of the RTI Act in bringing transparency in the affairs of public authorities as such I find some substance in the argument of the appellant that PIO has purposely /deliberately with malafided intentions have furnished him incomplete and incorrect information.

All the above circumstances leads me to draw a conclusion that PIO Shri Rui Cardoso has without any reasonable cause Persistently has not furnished the correct and complete information and hence this is an also fit case to recommend for disciplinary action against him under service rules governing to him U/s 20(2) and also for imposing penalty u/s 20(1).

Order

- a) The PIO, i.e. the Respondent No. 1 Shri Rui Cardoso herein shall pay Rs.3,000/- (Three Thousand Only) as penalty.
- b) The aforesaid total amount payable as penalty shall be deducted from the salary of the PIO in two equal installments and the penalty amount shall be credited to the Government Treasury. The deduction will start from the month of July 2017.
- c) The Director of Panchayat shall conduct the inquiry as contemplated u/s 20(2) of RTI Act.

Penalty proceedings dispose off accordingly. Pronounced in open proceedings.

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.

Sd/-

(Ms. Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

