

GOA STATE INFORMATION COMMISSION

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

Penalty No.14/2017

In

Appeal No. 29/SCIC/2016

Franky Monteiro,
H.No.501, Devote,
Loutolim Salcete,
Margao –Goa.

..... Appellant

V/s

Shri P. K. Naik,
The Public Information Officer,
The BDO II of Salcete,
2nd Floor, Collector Bldg.,
Margao-Goa.

..... Respondent

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

Decided on 01/06/2017

1) While disposing the above appeal by order, dated 16/02/2017, this Commission directed the PIO, Shri P. K.Naik, as to why action u/s 20(1) and/or 20(2) should not be initiated against him for knowingly giving incorrect incomplete, and misleading information.

2) Pursuant to said notice, the PIO Shri P. K. Naik filed his reply dated 11/04/2017 on 17/04/2017. Vide his said reply, dated 11/04/2017, it is contended by PIO that he has received the RTI application on 05/11/2015 and was replied on 30/11/2015. According to him as the information at point NO.1, 2 and 4 was pertaining to Panchayat Raj Act which is

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in public domain, the appellant was asked to refer the same and that regarding No.(3) it was burden on Panchayat exchequer without provision in the act. The PIO also filed the copies of related papers alongwith his reply.

3) On the date when the PIO filed the reply he requested for an opportunity to clarify the matter and accordingly it was adjourned to 26/04/2017 to enable the PIO to clarify. In spite of such opportunity the PIO did not appear and could not clarify his reply any further. Hence matter was posted for orders.

4) I have perused the reply and considered the records. Per his reply, it is the contention of PIO that the application for information, dated 05/11/2015 was replied on 30/11/2015 and as the information to points Nos. 1, 2 and 4 were referring to Panchayat Raj Act, the appellant was directed to refer to said provision.

Regarding information at point (3) it is the contention of PIO that as the information would burden Panchayat exchequer the same was answered accordingly.

2) On perusal of the application u/s 6(1) of the act it is seen that vide the requirements at points (1) and (2) the appellant has sought opinion of the PIO, whether it was necessary/mandatory to annex minutes of previous meetings with notice of next meetings and whether minutes of the fortnightly/monthly meetings are required to be provided. Such requirements are the procedures prescribed under the act and the PIO has no role therein as the procedures are in

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public domain in the form of act. Hence the same were not required to be furnished and I find no fault on the part of PIO in his reply on these points.

3) However the PIO has informed the appellant, on his requirement of a reply by B.D.O. Salcette, dated 11/02/2014 received from V. P. Loutolim, that it contains the sections of Panchayat Raj Act and further that it will burden the Panchayat exchequer. I find this reply of PIO as not only wrong but also irresponsible. What was sought by appellant is the copy of reply itself not the provisions under which it was sent.

Secondly the act has provided for release of burden on exchequer by way of charging fees. PIO has not explained as to how there was a burden as stated by him. It appears that under a spacious plea of burden on exchequer, the PIO has refused the information.

4) Similarly, to requirement at (4) of application u/s 6(1) of the act, what was sought was the action taken report by office on letter, dated 11/02/2014 and it was answered by PIO that appellant been advised verbally to follow provision of Panchayat Raj Act. The PIO represents a public authority and all the actions are recorded. The PIO has no authority to deal with privately with parties orally. The conduct of PIO in the above situation is again irresponsible and contrary to the requirements of the Right to information Act.

5) As discussed and held by this Commission in our order, dated 16/02/2017, the First Appellate Authority (FAA) has also not applied his mind to the issue. The order of FAA is

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totally perverse and lacks application of mind as to how a public Authority function. As an officer, senior to PIO, the FAA ought to have been learned regarding the functioning of Public Authority and the sanctity of the Right to Information Act 2005.

6) Considering the fact that no precedents in respect of such acts of PIO are made available before me and further considering that the application was responded within time, I refrain from imposing penalty against the PIO. But the conduct and approach of the PIO and FAA are deplorable being irresponsible, casual and against the functional requirement of the Public Authorities and if allowed to persist would adversely affect the rights of the citizen in seeking information under the Act.

7) In the above, circumstances, **I addition to warning the PIO and First Appellate Authority to be diligent and careful in future while dealing with the matter under the Right to Information Act 2005, I also feel it appropriate to send a copy of this order to the Director of Panchayat and to the Revenue Secretary, to appraise them of the conduct of the authorities constituted under the act so that appropriate remedial measures are adopted.**

In the fact and circumstances, the show cause notice dated 16/02/2017 issued by this Commission u/s 20(1) and/or 20(2) stands withdrawn. Parties to be intimated.

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8) Copies of this order be sent to Director of Panchayat and to the Revenue Secretary, for information.

Pronounced in open proceedings.

Proceedings closed.

Sd/-

(Mr. Prashant S. Prabhu Tendolkar)

State Chief Information Commissioner

Goa State Information Commission

Panaji-Goa