

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

Appeal No.138/2016

Nigel Gonsalves,
Sorab House,
Khambatta Lane,
Opposite VJ BU PO By Culla(E)
Mumbai.

....Appellant

V/s.

1.The Public Information Officer,
The Asst. Registrar of Co-operative Societies,
North Zone, Mapusa-Goa

2.The First Appellate Authority,
Co-operative Societies, Goa,
Sahakar Sankul Building, 4th Floor,
Patto,Panaji-Goa

.Respondent

Appeal filed on: 22/07/2016

Decided on: 20/02/2017

ORDER

1. The appellant herein Shri Nigel Gonsalves by his application dated 29/02/2016, filed under section 6(1) of Right To Information Act 2005 sought certain information from Respondent No. 1, Public Information Officer (PIO), Office of Assistant Registrar of Cooperative Societies, North Zone, Mapusa-Goa under several points therein.
2. The said application was not responded by the PIO within time and as such deeming the same as refusal Appellant filed first appeal before the first Appellate Authority, who is Respondent No. 2 herein on 18/04/2016. No any decision was given by Respondent No. 2 First Appellate Authority (FAA) within specified time.

3. Appellant approached this Commission by way of 2nd appeal on 18/07/2016 interms of section 19(3) under RTI Act with a prayer as against Respondent PIO for furnishing the information and for invoking penal provision.
4. In pursuant to notice the Appellant present in person and Respondent No. 1 represented by Akhil Desai who filed reply on behalf of Respondent No. 1 PIO on 17/02/2017. First Appellate authority nor his representative was present nor filed reply.
5. Arguments of Parties were heard. Considered the records available in the file. During the hearing the Appellant submitted that he has come all the way from Mumbai and inspite of visiting the O/o Respondent PIO no complete information has been furnished. He submitted that information at point No. 1 and 3 has been furnished to him and he has carried the inspection concerning the said files. However he submits that the information at point No. 2(b) is required by him. He further submitted the said documents are required to be filed before the Registrar of Cooperative Society under the Cooperative Society Act by all Cooperative Societies and as such it forms the part of public records.
6. During the hearing the appellant disputed the contents of the reply at para 2 , 2nd last para and 3rd last para of the reply filed by the Respondent No. 1 PIO.
7. The appellant relied upon the citation of the apex court in Civil Appeal No. 6454 of 2011 in case of Central Board of Secondary Education and Another Vs. Aditya Bandopadhyay and Others. And submitted that he is entitled for said documents being public records.

8. Further It is contention of appellant that, the Respondent PIO has violated the provisions of the Act by not furnishing the information in time as such he should be penalize under section 20 of the Act and also due Compensation has to be awarded to him.
9. The Respondent No. 1 resists the appeal and submits that it was orally informed to the Appellant on 14/03/2016 during visit to their office that information at point No. 2 (b) i.e. audit report and Audit rectification (Form M) for the financial year 2010 and 2015 by the Anandi Apartments Cooperative Housing Maintenance Society Ltd., situated in Mapusa have not been submitted by them as such it does not form the parts of the record.
10. On perusal of records it is seen that the FAA have not disposed the appeal within the stipulated time as contemplated under the RTI Act so also the Respondent PIO have not responded in writing to his initial RTI application filed under section 6 (1) of RTI Act. The Act on the part of both the Respondents is in contravention against the mandate of RTI Act. The said act came to existence to provide fast relief as such the time limit is fixed under said act to dispose the application under section 6(1) within 30 days and to dispose first appeal maximum within 45 days. The acts of both the Respondents are condemnable. The Respondents herein also failed to take into consideration the intent of RTI Act which came into force.
11. It is quite obvious that the Appellant have suffered lots of harassment and mental agony in seeking information. He has made to run from pillar to pole, lots of his valuable time is being spent on seeking the information. If Respondent No. 1, then PIO had taken prompt and given correct information such harassment and detriment could have been avoided.

12. 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 men which is socially abhorring and legally impermissible, therefore some sought of compensation helps in caring this social grief.
13. Considering the conduct of the of both the Respondents and their indifferent approach to the entire issue , I find some substance in the contention of the appellant. In the afore said circumstances I proceed to dispose this appeal with the following order :-

ORDER

1. Since the Respondent PIO being the regulatory and monitoring authority under Cooperative Societies Act, has powers to call for the documents which are mandatory in nature as such PIO is hereby directed to call for the Audit Rectification Report (form-M) from Managing Committee of Anandi Apartment Cooperative Housing Maintenance Society Ltd., Duler, Mapusa-Goa which is registered vide Registration No. GEN/13/NZ/GOA dated 05/10/2009 for the financial year 2010-11, 2012-13, 2013-14 and 2014-15 and furnish the same to the Appellant within one week from the receipt of same from Management of Anandi Apartment Cooperative Housing Maintenance Society Ltd., free of cost by Register A D. and produce before this Commission the postal Acknowledgement card.
2. Issue showcause to the Respondent PIO 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.
3. The Respondent FAA is hereby directed to disposed the first appeal within time specified in RTI Act hence forth and any lapses in future will be viewed seriously.

4. Respondent No. 1. is hereby directed to remain present before this Commission on 24/03/2017 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.
5. 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.

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/-
(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa