

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Smt. Pratima K. Vernekar,
State Information Commissioner.

Appeal No.181/2016

Mr. Laxman P. Pagi,
H.No. 1372, Sakhwamol,
Xelim-Loliem,
Canacona, Goa.

....Appellant

V/s.

1. Public information Officer (PIO),
Administrator of Comunidade,
South Zone, Comunidade .
Margao Goa, South Goa.
2. The Asst. Public information Officer (APIO)
Comunidade of Loliem,
At Loliem Cacacona, Goa
3. First Appellate Authority (FAA),
The Additional Collector-I,
South Goa District,
Collectorate South ,
At Margao.

.....Respondents

Appeal filed on: 9/09/2016

Decided on: 17/04/2017

ORDER

1. The appellant Shri Laxman Pagi by his application dated 11/03/2016, filed under section 6(1) of the Right To Information Act 2005 sought certain information from the Respondent No. 1 Public Information Officer (PIO), Administrator of Comunidade, South Zone, Margao under several points as stated there in the said application.
2. It is case of the appellant the Respondent No. 1 PIO forwarded his application to Respondent No. 2 Assistant Public Information Officer (APIO) of Comunidade of Loliem and that Respondent No. 1 PIO did not provide him information within 30 days in

conformity with RTI Act 2005 which expired on 15/04/2016. It is his further case that on 16/04/2016 he received phone call from office of Respondent No. 1 PIO, to collect information and accordingly on 18/04/2016 collected information which was furnished to him vide letter bearing No. ACSZ/RTI/120/2016-17/15 dated 4/4/2016 which according to him was not true and correct and complete.

3. It is his further case that vide application dated 11/03/2016, he had specifically requested to provide him attested copy of his file concerning letter bearing NO. 52/19/2008/CAB dated 5/01/2010 of the Deputy Collector, Margao which was sent to respondent NO. 1 from there to Respondent No. 2 for doing the needful.
4. It is further case that since above information was not furnished to him, he filed 1st appeal before Collector of South Goa District who is Respondent No. 3 herein on 25/04/2016 which was disposed by the Respondent No. 3 FAA vide order dated 07/06/2016 and his prayer for furnishing him the attested copies of his complete file concerning letter NO. 52/19/2008-CAB/dated 5/01/2010 of the Deputy Collector (LA Margao) was not granted.
5. Being aggrieved by the order of Respondent No. 3 FAA, The Appellant approached this Commission by way of second appeal under section 19(3) of RTI Act on 7/09/2016 with the prayer (a) for direction to provide him the information as sought by him vide his RTI application dated 11/03/2016 free of cost and (b) for invoking penal provision of RTI Act as contemplated under section 20(1) and 20(2) of RTI Act as against all the Respondents, (c) for compensation and for direction to Respondents to register the FIR with the Police under section 154 of CRPC.
6. In pursuant to the notice of this Commission the son of appellant Shri Rajendra Pagi appeared . Respondent No. 1 was represented by Sulaksha Desai. Respondent No. 3 , Shri L. S. R. Pereira appeared Respondent No. 2 opted to remain absent.
7. During the hearing on 24/03/2017 the Commission verified the information which was furnished to the appellant vide letter dated 4/04/2016 visa vis his application dated 11/03/2016. And

it was found that the queries at serial No. 1 to 10 and 17 to 36 have been duly and clearly answered. This Commission then directed Respondent No. 1 PIO to provide complete and clear information pertaining to points 11 to 16 of the RTI application. Accordingly reply came to be filed by Respondent No. 1 on 4/4/17 there by furnishing the information at point no. 11 to 16. The copy of the same was furnished to the son of the appellant on 4/4/2017.

8. An application of the Appellant dated 29/03/2017 which was filed in the Registry of this Commission which was Inwarded vide entry NO. 778 on 30/03/2017 was placed before me on 5/04/2017 where in appellant had prayed to provide him copy of the reply filed by Respondent if any and to provide him opportunity to file written arguments and to pass order on merits of the record.
9. Accordingly written arguments were filed by Appellant on 10/04/2017. The Respondent No. 1 and Respondent No. 3 submitted to pass an appropriate order based on the records available in the file.
10. Vide their written arguments, the appellant contended that he was entirely seeking information regarding his missing file and for tracing and recovering of missing file. However nothing is placed on record by appellant to show that said file is missing and from where it was missing, on the contrary the records produced by Respondent No. 1 PIO Shows that the said file was referred to Respondent No. 2 for doing the needful.

The order of the FAA dated 7/06/2017 reflects that Respondent No.1 PIO and Respondent No. 2, APIO, Comunidade of Loliem, Cancona-Goa were present so also the appellant. There is nothing on record to substantiate that Both Respondent have contended that file is missing.

The Respondent No. 1 have furnished the appellant their dispatch Register by which the said file was submitted to Respondent No. 2 and also a page bearing the acknowledgment of Escricao of having received the same.

In absence of any document on record, the mere statement of appellant that the file is missing cannot be taken as gospel truth.

After minutely verifying the application of the appellant dated 11/03/2016 visa vis the information provided to him vide letter dated 4/04/2017 it is seen that information which was sought by him from points 1 to 36 have been duly replied and furnished by the Respondent No. 1 PIO.

11. RTI application dated 11/03/2016 relied by the appellant himself, doesnot reveals that he has specifically requested to provide him the attested copies of the file concerning letter No. 52/19/2008/CAB dated 5/01/2010 of the Deputy Collector (LA) Margao which was sent by the said Dy. Collector to the PIO/Respondent No. 1 and from there to the APIO/Respondent No. 2 for doing the needful as per law. As such I find no infirmity in the order passed by Respondent No. 3, FAA.
12. As such I hold that no intervention of this Commission required as far as information is considered pertaining to his RTI application dated 11/03/2016.
13. With regards to the prayer which are penal in nature:

Hon'ble High Court at Bombay at Goa Bench at Panaji in the case of ***Shri A.A. Parulekar V/s Goa State Information Commission and others (Writ Petition No. 205/2007)*** has observed:

"11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate

14. *At in another case reported in Delhi High Court in case of Registrar of Companies and Others V/s Dharmendra Kumar Garg and Anothers in W.P. (c) 11271/2009 in judgment delivered on 1/06/2012 has held that:-*

"The legislature has cautiously provided that only in cases of malafides or

unreasonable conduct, i.e. where the PIO without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, threat the personal penalty on the PIO can be imposed. This was certainly not one such case. If the CIC starts imposing penalty on the PIO's in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.”

15. *The High court of Punjab and Haryana at Chandigarh in Writ Petition No. 6504 of 2009; State of Punjab and others V/s State Information Commission Punjab has held at para 3*

“The penalty provisions under section 20 is only to sensitise the public authorities that they should act with all due alacrity and not hold up information which a person seeks to obtain. It is not every delay that should be visited with penalty. If there is a delay and it is explained, the question will only revolve whether the explanation is acceptable or not. If there had been a delay of a year and if there was superintendent, who was prodding the Public

Information Officer to Act, that is self should be seen a circumstance where the government authorities seemed reasonably aware of the compulsions of time and the imperatives of providing information without any delay. The 2nd respondent has got what he has wanted and if there was a delay, the delay was for reasons explained above which I accept as justified.”

16. On perusal of the record it is seen that there is absolutely no delay caused on the part of the Respondent No. 1 PIO in replying and furnishing information to the Appellant. From the entire conduct of Respondent No. 1 PIO it is seen that there is no intention either to hold any information or deny such information to the appellant. Records Shows that PIO answered his queries vide reply dated 4/04/2017 and on 4/04/2016. It is not the case of Appellant that false information have been furnished to him. Only grievance of appellant is that he has not been provided with attested copies of the entire file concerning Letter No. 52/19/2008/CAB dated 5/01/2010 of the Deputy Collector (LA) Margao which was sent by the said Dy. Collector to the PIO/Respondent No. 1 and from there to the APIO/Respondent No. 2 for doing the needful as per law.
17. However it is seen from the said application that he had not sought for the same as such he cannot claim such information as a matter of his right.
18. Based on the above record it is observed that Respondent No. 1 PIO is very diligent in his duty under the RTI Act. The application of appellant was responded within 30 days. Vide said reply they have also provided the information. Further during the proceedings before this Commission also. Respondent No. 1 PIO had always volunteered to provide him clear information and vide their reply dated 4/04/17 have answered all queries of applicant in an clear and unambiguous manner.
19. Hence I am unable to concede to the request of the appellant by his prayer for imposing of penalty under section 20 (1) and 20(2) of the RTI Act and compensation as contemplated under section 19(8) (b). Prayer (a) has become infructuas as the same is already offered and furnish to the appellant.

20. In the above given circumstances, I pass following order:-

ORDER

Since information furnished to the Appellant as sought by his application dated 11/03/2016, no intervention is required . However liability granted to appellant to seek any information with regard to same subject matter.

Prayer for penalty and compensation not granted

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/-

(Ms. Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

Fn/Kk/-