

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

Appeal No.90/SCIC/2015

Smt. Antonia Michelle Abel,
 Flat A-3 Bella Vista Apartments,
 O' Coqueiro Circle,
 Alto Porvorim-Goa 403521

.....Appellant.

V/s

1. First Appellate Authority (FAA),
 Office of the Chief Electoral Officer,
 Altinho, Panaji-Goa-403001
2. The Public Information Officer (PIO),
 Jt. Chief Electoral Officer,
 Office of the Chief Electoral Officer,
 Altinho, Panaji-Goa
3. The First Appellate Authority (FAA),
 Department of Law,
 (Legal Affairs), Govt. of Goa,
 The Secretariat, Porvorim-Goa,
 403521

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 9/07/2015

Decided on: 24/10/2017

ORDER

1. The appellant Smt Antonia Abel has filed this appeal praying for quashing and setting aside the order passed by Respondent No. 1 First Appellate Authority (FAA) dated 22/05/2015 and for taking disciplinary action against the Respondent No. 1 and Respondent No. 2 according to the Right To Information Act, 2005.
2. The brief facts leading to the present appeal are as under:-
3. That the appellant vide her application dated 24/11/2014 sought certain information on 10 points as stated therein in the said application under the RTI Act,

2005 from the Respondent No. 2 Public Information Officer (PIO), O/o the Chief Electoral Officer, Altinho, Panjim-Goa.

4. The said application was responded by the Respondent No. 2 PIO herein on 11/12/2014, thereby informing the appellant that the information sought by her is not available in their office.
5. Being not satisfied with the reply of Respondent No. 2, the appellant herein filed first appeal on 10/04/2015 before Respondent No. 1 FAA and the Respondent No. 1 FAA by an order dated 22/05/2015 disposed the said appeal by upholding the say of the PIO. However the directions were given to Respondent No. 2 PIO by Respondent No. 1 FAA to transfer the said application to the authorities as per the provisions of section 6(3)(ii) of RTI Act, 2005 within time limit of 5 days.
6. In compliance to the order of Respondent No. 1 FAA the Respondent No. 2 PIO vide his letter dated 25/05/2015 then transferred the said application of the appellant to various PIO's namely 1) Secretary to Governor, Dona Paula-Goa, 2) Directorate of Municipal Administration, Panjim-Goa 3) Director of NRI Affairs, Porvorim-Goa 4) Under Secretary Revenue, Porvorim-Goa 5) Directorate of Panchayat, Panjim 6) Undersecretary of (Law), Porvorim-Goa and 7) Administrator of Comunidade (North/ South).
7. The PIO (Undersecretary-Law) then transferred the same to Under Secretary (Legislative Affairs) on 11/06/2015 under section 6(3) of the RTI Act.
8. The Under Secretary (Legislative Affairs) vide letter dated 22/06/2015 provided information pertaining to their department in respect of point No. 3 of her application.
9. Being not satisfied with the reply of the PIO (of Legislative Affairs) the appellant preferred first appeal on

29/06/2015 before the Respondent No. 3 FAA of the Law Department.

10. The appellant also preferred the present appeal u/s 19(3) of the RTI Act against the Respondent No. 1, Chief Electoral Officer, Respondent No. 2 PIO of Joint Chief Electoral Officer and Respondent No. 3 FAA of the Law Department on the various grounds as set out in the memo of appeal some of the grounds are that

a) Respondent No. 2 PIO without checking with those Public Authorities who are holding the information **carelessly** directed the APIO to transfer the copy of the application to the authorities namely 1) Secretary to Governor, Dona Paula-Goa, 2) Directorate of Municipal Administration, Panjim-Goa 3) Director of NRI Affairs, Porvorim-Goa 4) Under Secretary Revenue, Porvorim-Goa 5) Directorate of Panchayat, Panjim 6) Undersecretary of (Law), Porvorim-Goa and 7) Administrator of Comunidade (North/ South).

b) According to the appellant the Respondent No. 3 FAA of Law Department had not passed the proper order.

11. The notices of the present appeal was issued to both the parties. In pursuant to notice of this Commission appellant opted to remain absent. Respondent No. 1 FAA of O/o Chief Electoral Officer was absent Respondent No. 3 i.e. the FAA of the Department of Law were represented by Advocate Kishore Bhagat. Respondent No. 2 PIO of Chief Electoral Officer, Shri Devidas Gaonkar was present.

12. The Respondent No. 2 PIO filed his reply on 26/09/2017 and the Respondent No. 3 filed his reply on 4/10/2017. Respondent resist the appeal and their reply are on record.

13. It is case of Respondent No. 2 PIO that the information was not available with the Authority. In compliance of the order of Respondent No. 1 FAA the

application of the appellant was transferred u/s 6(3) to the competent authority and subsequently as the appellant has applied to the FAA to transfer the said application to the State Election Commission vide her application dated 30/06/2015, the Respondent No. 2 PIO also transferred her application to Goa State Election Commission, Goa vide letter dated 15/07/2015. The relevant documents were also enclosed to the said reply insupport of his above contention.

14. The Respondent No. 3 vide their reply have contended that the PIO, Under Secretary (Legislative Affairs) replied the Appellant vide letter dated 22/06/2015. At para 2 of their reply have clarified in detail in respect to point No. 3. Vide said reply they have prayed for their discharge as no specific relief has been sought against him.
15. I have scrutinised the records available in the files. On scrutiny of the records it is seen that the appellant has sought multiple information relating to several authorities. The Respondent No. 2 PIO/APIO have categorily informed that the information sought by the appellant doesnot pertain to Chief Electoral Officer Office. The appellant herself at para 8 of the memo of appeal admits that Goa State Election Commission is the Public Authority responsible for conducting elections for the Panchayat and Municipalities as such I do not find any irregularity in the reply given by Respondent No. 2 PIO in terms of section 7 of RTI Act. Nevertheless the Respondent No. 2 PIO in response to the letter dated 30/06/2015 made by the appellant to Respondent No. 1, FAA, on learning the same transferred the said application to the Goa State Election Commission on 15/07/2015 under section 6(3) for furnishing required information to the appellant as such prayer (b) becomes redundant and infructuous.
16. The records also speaks that the application of the appellant was responded by Respondent No. 2 PIO within stipulated time of 30 days. The Respondent No. 1

First Appellate Authority has also dispose the appeal within stipulated time as contemplated under section 19(1) of the RTI Act. Both the respondent no. 1 and 2 have acted very diligently in performing their duties under RTI Act. There is no cogent and sufficient evidence brought on record by the appellant for invoking penal provisions as required in the ratio laid by Hon'ble High Court of Bombay at Goa in case of A. A. Parulekar V/s Goa State Information Commission and others (Writ Petition No. 205/2007)

17. Since the appellant have made the averment that the Respondent No. 2 PIO knew that he had to transfer the application to Goa State Election Commission and he knowingly didnot transferred the same within 5 days thereby causing endless problems to the appellant as such the onus was on the appellant to prove the same. By remaining continuous absent and not supporting said statement with any cogent evidence, has failed to discharge the said burden.
18. The facts of the present case doesnot warrant for invoking penal provisions, as against Respondent No. 1 FAA and Respondent No. 2 as such I am declined to grant prayer (c) of the memo of appeal.
19. It is also pertinent to note that though the appellant raised issue that Respondent No. 3 FAA of law Department had not passed proper order, the said order was not challenged in the present proceedings nor any relief is sought against Respondent No. 3 nor the PIO of the Law Department is made an party as such no direction of whatsoever nature can be issued to Respondent No. 3
20. The Appeal disposed accordingly. Proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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 under the Right to Information Act 2005.

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

KK/-