

GOA STATE INFORMATION COMMISSION

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

Appeal No. 179/2016

Mr.Laxman Putu pagi,
Senior Citizen, aged 76 years,
H.No. 1372, Sakhwamol,
Xelim-Loliem,
Canacona-Goa.

..... Appellant

V/s.

1.Public Information Officer,
Addl. Collector-I,
South Goa District,
Collectorate South Building,
At Margao Goa.

2. The APIO/Dy. Collector(DRO),
CAB Section,
Collectorate South Building,
At Margao Goa.

3.First Appellate Authority/Collector (South),
Collectorate South Building,
At Margao Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 09/09/2016

Decided on:16/05/2017

ORDER

1. The appellant, Shri Laxman Pagi submitted an application on 11/3/2016 under the RTI Act, 2005 seeking certain information at queries from no. 1 to 22 from the PIO , Deputy Collector (Land requisition) office of South Goa district, Margao.
2. It is the case of appellant that the said application was not responded to by the PIO within time as such deeming the same as refusal, the appellant filed first appeal before the

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Collector of south Goa District being FAA, on 25/3/16 who is Respondent No.3 herein and the respondent No. 3 FAA (FAA) disposed the said appeal on 1/6/2016.

3. It is further case of appellant that during the pendency of first appeal the respondent PIO vide his letter dated 26/5/16 furnished the information to the appellant on all 22 points.
4. Being not satisfied with the information provided to him on 26/05/2016 and being aggrieved by the action of both the respondents, the appellant approached this commission by way of present second appeal u/s 19(3) of RTI Act, 2005 on 8/9/16.
5. The matter was listed on board and was taken up for hearing. Appellant was represented by his son Rajendra Pagi. Respondent No. 1 PIO Shri L. S. Pereira present, who submitted that since the file of the appellant is submitted to the Administrator of comunidade for necessary action and as such the information is available in the said concerned Department. He further submitted that the said fact was intimated to the appellant on 26/05/16 vide their letter bearing No. 5455. This Commission verified the answer given viz-a-viz the RTI application. The Commission found that the answers given to the point No. 4,5, 12 were not cleared as such directions were given to the Respondent No. 1 PIO to give clear and unambiguous answer to the above queries. Accordingly the Respondent No. 1, PIO furnished the said information on 4/4/2017 and 17/4/2017.
6. On the same day i.e. on 17/04/2017 the appellant also filed his written arguments. It is the contention of the appellant that PIO i.e. respondent No. 1 and respondent No. 2 APIO not

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responded their application nor provided information to him within stipulated time of 30 days or thereafter.

7. It is his further contention that the information provided to him subsequently is not specific, true, correct and complete. It is also contended that the Respondent No.3 FAA did not inquire regarding the file not available in Comunidade and that the first appellate authority had not made any fruitful efforts to trace the file nor filed FIR to police to do investigation of the missing /stolen public records. And on that ground the appellant had prayed for invoking penal provision as contemplated u/s 20(1) and 20(2) of RTI Act.
8. I have perused the records and also considered the replies of the PIO and the arguments.
9. On perusal of the reply dated 26/5/16, 4/4/2017 and 17/4/2017 of the PIOs it is seen that the information in respect to all the points have been duly answered/furnished to the Appellant, as such this commission hold that no intervention is required of this commission at prayer 14(a).

Now with regards to prayer (c), the respondent by his reply dated 26/5/16 have categorily answered at point NO. 13 that file is available. Nothing is placed on record by the appellant showing that the said file is missing. In absence of any substantial evidence it will not be appropriate on the part of this commission to order disciplinary inquiry against respondent so also to give direction to file FIR with the Police. As such the prayer (c), (d), and (e) of the appellant cannot be granted.

10. The contention of the appellant vide memo of appeal and written arguments is that the Respondent No. 1 PIO has not furnished information within time and such he should be

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penalize u/s 20 of the Act. Based on the records I find that Respondent No. 1 PIO has not bothered to reply the application of the appellant filed u/s 6(1) within 30 days. The same is responded by the respondent no.1 PIO on 26/5/2016. The PIO has also not given any justification for not responding it within time, as such I find prima facie that there is delay in responding the said application.

11. Section 20 reads as under;

Where the Central Information Commission or the State information commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central public Information Officer or the State Public information Officer, as the case may be, has, without any reasonable cause, *refused to receive an application for information **or has not furnished information within time specified under Sub-section(1) of section 7 or malafidely denied** the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty –five thousand rupees.*

Thus the act empowers the commission to issue penalties only the cases as contained in section 20.

I find prima facie the PIO failed to respond the application within stipulated time of 30 days. There is a delay of approximately about two and half months in finishing the information. However before imposing any penalty the opportunity has to given to PIO to explain his version.

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In the circumstances I pass the following order

ORDER

The appeal is partly allowed.

No intervention of this commission required as far as prayer 1 is consider as the information is already furnished to him .

a)Issue show cause to the Respondent then 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.

b)Respondent No. 1 is hereby directed to remain present before this Commission on 12/06/2017 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.

c)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.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

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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