

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

Appeal No. 213/2018/SIC-I

Shri Nigel Gonsalves,
5, Sorab House,
Khambatta Lane,
Byculla(E) Mumbai-400027.

.....Appellant.

V/s

1. Public Information Officer,(PIO)
Asst. Registrar of Co-operative Societies,
North Zone, Mapusa Goa 403507.

2. First Appellate Authority ,
Registrar of Co-operative Societies,
Goa Sahakar Sankul Building,
4th floor, Patto, Panaji.

.....Respondents

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

Filed on: 21/8/2018

Decided on: 8/11/2018

ORDER

1. The brief facts leading to present appeal are that the appellant Shri Nigel Gonsalves by his application dated 5/2/2018 filed under section 6(1) of Right to Information Act, 2005 sought from Respondent PIO, of the office of Registrar of Co-operative Societies, Panajim-Goa, certain information/ certified copies of the documents as stated therein in the said application on seven points including inspection of some of the records.
2. According to the appellant his said application was not responded by the PIO nor the information was furnished to him as such considering the same as rejection, the appellant filed 1st appeal on 23/3/2018 before the Registrar of Co-operative Societies being the first appellate authority in terms of section 19(1) of RTI Act, 2005.
3. It is the contention of the appellant that the Respondent No. 2 failed to pass any order and failed to dispose the first appeal

within stipulated time as contemplated u/s 19(1) of RTI Act, 2005 and as he did not received any information, as such he being aggrieved by the action of the both the Respondents is forced to prefer the present appeal.

4. In this background the appellant has preferred a present appeal on 20/7/2018 as contemplated u/s 19(3) of RTI Act, thereby seeking directions as against respondent PIO for furnishing him correct information and for invoking penal provisions so also compensation.
5. In pursuant to the notice of this commission the appellant opted to remain absent. Respondent No. 1 PIO Shri P.S. Sawant and representative of respondent NO. 2 first appellate authority Shri Dhiraj Pednekar was present only during first hearing and then opted to remain absent .
6. No reply was filed by both the Respondents despite of giving them opportunity to file the same. As such, I presume and hold that the averments made in the memo of appeal are not disputed by both the Respondents herein.
7. On account of absence of both the parties, this commission had no any other option to decide the matter based on the available records in the file.
8. On scrutiny of the records in the file it is seen that the application u/s 6(1) of the act was filed on 5/2/2018. U/s 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. There are no records produced by the PIO that the same is adhered to. The contention of the appellant in the memo of appeal is that the said application was not responded too at all by the PIO thus from the undisputed and un rebutted averment , the PIO has failed to respond appellant application nor has furnished the information.

9. Section 4 (1)(d) of the RTI Act requires that the public authority to provide reasons for his administrative or quasi Judicial decision to the effected person.
10. The Hon'ble Delhi High Court in writ petition (c)No. 5957/2007; Kusum Devi V/s Central Information Commission has held that;

"The petitioner certainly has right to ask for "Information" with regards to complaints made by him, action taken and the decision taken thereafter"
11. Since the complaint dated 27/3/2017 has been filed by the appellant herein, he had every right to know the status of this complaint and proceedings conducted therein. As such by applying the above ratio I am of the opinion that the appellant herein is entitle for the information as sought by him at point No. 2vide his application dated 5/2/2018.
12. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act. Such a conduct of PIO is obstructing transferacy and accountability appears to be suspicious and adamant vis-a-vis the intend of the Act. It is a duty of the PIO to respond the application of the appellant and to provide him pointwise information. Since no such exercise was made by the PIO, I find that the appellant is also entitled to get point wise reply and the certified copies of the documents as sought by him by his application dated 5/2/2018.
13. The displeasure is hereby expressed by this commission on the conduct and the attitude of the Respondent No. 2 First Appellate Authority (FAA). The Records shows that even though the First appeal was filed by appellant the same was not disposed by the FAA within a period of 45 days.
14. The Act on the part of both the respondents is not in conformity with the provisions of RTI Act, 2005. The said act came into

existence to provide fast relief and as such time limit is fixed under the said act to dispose the application u/s 6(1) of RTI Act, 2005 within 30 days and to dispose first appeal maximum within 45 days.

15. From the above gesture of both the Respondents, I find that the entire conduct of Respondents is not in consonance with the act. Such an lapse on part of PIO is punishable u/s 20(1) and 20(2) of the RTI Act. However before imposing penalty, I find it appropriate to seek explanation from the PIO as to why penalty should not been imposed on him for the contravention of section 7(1) of the act, and for delaying the information.
16. On perusing of the memo of appeal it is seen that certain contemptuous statement are made by the appellant for not awarding penalty in the Appeal No. 161/2017 and in Appeal No. 138/2016. Such a language of the appellant amounts to pressure tactics and interference in the judicial proceedings and as such are deplorable. Needless to say that if the appellant is aggrieved by the order of this commission, it was for him to move against the said order with appropriate forum.
17. The compensation as sought by the appellant cannot be granted as no convincing documentary evidence about the detriment or the loss caused by appellant was produced on record by him.
18. I therefore dispose the present appeal with order as under ;

Order

Appeal allowed.

- a) The Respondent PIO is hereby directed to provide the information to the appellant as sought by him vide his RTI Application dated 5/2/2018, within 20 days, free of cost from the date of receipt of this order by him.
- b) Issue notice to Respondent PIO to Showcause as to why no action as contemplated u/s 20(1) and /or 20(2) of the RTI

Act 2005 should not be initiated against him/her for contravention of section 7(1) ,and for delay in furnishing the information.

- 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 along with the order to him and produce the acknowledgement before the commission on or before the next date fixed in the matter alongwith full name and present address of the then PIO.
- d) Respondent, PIO is hereby directed to remain present before this Commission on 23/11/2018 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- e) Registry of this commission to open a separate penalty proceedings against the Respondent PIO.

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.