

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

Appeal No. 125/2018 /SIC-I

Shri Peter Paul D'Souza,
R/o H.No.63-2,
Mainath Bhatti Vaddo,
Arpora, Bardez –Goa.

....Appellant

V/s

1)The Public Information Officer,
The Secretary,
Village Panchayat of Arpora-nagova,
Bardez Goa.

2)First Appellate Authority,
The Block Development Officer-II,
Government Complex, Mapusa,
Bardez-Goa.

.....Respondents

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

Filed on: 21/05/2018
Decided on:26/09/2018

ORDER

1. The brief facts leading to the present appeal are that the Appellant Shri Peter D'Souza herein by his application dated 12/2/2018, filed u/s 6(1) of RTI Act, 2005 sought certain information from the Respondent no. 1 PIO of the office of the Village Panchayat , Arpora, Nagova, Bardez Goa under two points as stated therein in the said application.
2. It is the contention of the appellant that the Respondent No. 1 PIO failed to furnish him the said document as sought by him within stipulated period of 30 days and that he received reply of PIO on 11/5/2018 furnishing the point wise information only after the order of first appellate authority.

3. According to the appellant the information furnished to him vide letter dated 11/5/2018 was incorrect and false and it did not pertain to the affidavit filed by the secretary of panchayat of Arpora, Nagoa in the High Court of Bombay at Goa.
4. In this back ground being aggrieved by the action of Respondent PIO herein the present appeal came to be filed by the appellant on 21/5/2018 interms of section 19(3) of RTI Act 2005 thereby seeking direction to PIO for furnishing him the correct information as sought by him vide his application dated 12/2/2018 and for invoking penal provisions .
5. Both the parties were duly notified. In pursuant of notice of this commission the appellant appeared in person. Respondent No. 1 PIO was represented by Advocate S.P. Desai and respondent No.2 FAA was represented by Shri Mahesh Gawade.
6. Reply filed by respondent No.1 PIO on 27/8/2018 and also additional reply came to be filed on 26/9/2018. Reply filed by Respondent No. 2 first appellate authority on 10/7/2018. The copies of the above replies of the Respondents were furnished to the appellant.
7. The appellant also filed his affidavit in support of his appeal on 23/7/2018.
8. Arguments were advanced by both the parties.
9. It is the case of the appellant vide his affidavit so also during his arguments before this commission that PIO has provided him false information under the RTI Act . It is his case that in the present case the PIO have submitted vide reply dated 11/5/2018 that only one license was granted whereas in the other RTI application of the same date seeking the information regarding the same subject matter, PIO vide reply dated 11/5/2018 have given reply that 4 licenses are issued . As such it is his case that there cannot be two answer in the same query or in the nature of same

information. It is the further case of appellant that the Respondent PIO have intentionally and deliberately gave false answer in order to protect illegality committed by the Panchayat and also PIO being Secretary is trying to safe guard the vested interest of some builders .

10. Vide reply dated 27/8/2018 the PIO have contended that they don't maintained the information based upon the road access and are based upon the names of the respective applicant. It was further contended that the Panchayat is neither required to maintain the information in the manner requested by the appellant. It was further contended that since Panchayat does not maintain the information based upon the roads access as such no information could be provided to the appellant.
11. Vide additional reply dated 26/9/2018 and during the submission before this commission the Advocate for the Respondent contended that the no construction licenses have been issued on the road as mentioned in Affidavit 19/72018 filed by the appellant in pursuance of RTI application dated 12/2/2018. The Advocate for PIO also contended that the reply dated 11/5/2018 of the PIO be discarded as the same is issued based on the misconception of RTI Application.
12. I scrutinize the records available in the file, since now the complete information has been provided to appellant free of cost, the relief sought by the appellant at prayer (1) becomes in fructuous.
13. On going through the entire records of the present file it is seen that the application u/s 6(1) of RTI Act was filed before the PIO on 12/2/2018. The reply of PIO dated 11/5/2018 is not given within 30 days as contemplated u/s 7(1) of RTI Act. There is a delay in responding the said application.

14. The rectified copy of the information came to be furnished to the appellant only during the present proceeding vide additional reply dated 26/9/2018. In his earlier reply dated 11/5/2018 it was submitted that one license has been granted where as now vide additional reply dated 26/9/2018 has submitted no licenses are issued. The PIO has also sought to discard his earlier reply dated 11/5/2018 as such prima facie I find some truth in the contention of the appellant that initially false and misleading information was provided to him by PIO. However before imposing any penalty an opportunity has to be given to the Respondent PIO to explain his version.

15. In the above given circumstances, following order is passed.

Order

- a. Appeal partly allowed .
- b. As the information is now furnished as sought by the appellant vide his application dated 12/2/2018, I find no intervention of this commission is required for the purpose of furnishing the information.
- c. Issue notice to respondent No. 1 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 for contravention of section 7(1), and for furnishing misleading information.
- d. 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.
- e. Respondent, PIO is hereby directed to remain present before this commission on 16/10/2018 at 10.30 am alongwith written

submission showing cause why penalty should not be imposed on him.

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 against this order under the Right to Information Act 2005.

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