

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

Appeal No. 212/2018/SIC-I

Shri Subhash G. Narvekar,
R/o. H.No.164, V "Ganesh"
Alto Duler, Mapusa,
Bardez Goa-402507

...Appellant

V/s

1) The Public Information Officer,
Administrator of Devalaya of Bardez,
Mapusa-Bardez,
Goa-402507

2) First Appellate Authority,
Dy. Collector & S.D.O.,
Mapusa-Bardez,
Goa-402507.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 29/08/2018

Decided on: 17/10/2018

ORDER

1. The second appeal came to be filed by the appellant Shri. Subhash G. Narvekar on 29/08/2018 against the Respondent no. 1 Public Information Officer of Administrator of Devalaya of Bardez, Mapusa and against Respondent no. 2 FAA under sub section 3 of section 19 of RTI Act 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 03/04/2018 had sought for certified copies of documents as provided under article 75(1) to 75(2) of Devasthan Regulations, in respect to the approval of budget for the year 2016-2017 and 2017-2018 approved on 31/07/2016 and 30/07/2017 along with the copy of budget in respect to Shri. Dev Bodgeswar Sansthan, Mapusa, Goa.

3. It is the contention of the appellant that his above application filed in terms of sub section 1 of section 6 was not responded by the respondent no 1 PIO within stipulated time of 30 days and as such deeming the same as rejection, the appellant filed 1st appeal to Respondent no 2 on 11/05/2018.
4. It is the contention of the appellant that on 19/06/2018 the Respondent no. 1 furnished him incomplete information. According to the appellant he was only furnished the budget for the year ending 2017 and 2018 and PIO has not furnished the copies of the documents as provided under article 75(2) and under article 75(5) of Devasthan regulation act as sought by him vide his application dated 03/04/2018 as such the said fact was brought to the notice of the Respondent no. 2 by him by an application dated 22/06/2018. It is his further submission that upon the directions from Respondent no. 2 FAA, he filed application dated 25/07/2018 clarifying the requirement of information/documents sought by him vide earlier application dated 03/04/2018.
5. It is the contention of the appellant that after issuing notices and hearing both the parties the respondent no. 2 vide order dated 31/07/2018 directed the respondent no 1 PIO to issue the information in respect to point no. 1 to 5 of the clarification dated 25/07/2018 if held by the PIO in record form to the appellant within 7 days.
6. It is the contention of the appellant that inspite of the said order the said information was not furnished and hence the appellant has approached this commission in his 2nd appeal seeking relief of directions to PIO to furnish the information as also seeking penalty for not giving information within time.
7. Notices were issued to both the parties. Despite of due service of notice neither the appellant remained present nor both the respondents appeared in the proceedings. Neither filed their respective replies. As such I presume and hold that the averments

made in the memo of appeal are not disputed by the respondent PIO.

8. On account of absence of both the parties this Commission had no any other option then to decide the matter based on the available records.
9. As per the records the application dated 03/04/2018 was received by the office of respondent no 1 on 04/04/2018. 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 too. The contention of the appellant in the appeal is that the said application was not responded too at all by the PIO, thus from the undisputed and unrebutted averments by the PIO, one could draw an conclusion that PIO has failed to respond appellant's application nor has furnished the information within the stipulated time as contemplated under the RTI Act.
10. On perusal of the order dated 31/07/2018 passed by the FAA it could be revealed that the representative of the respondent was present when the order was passed by the respondent no. 2. Respondent no 2 FAA had directed PIO to furnish the information in respect to point no. 1 to 5 as sought in application dated 25/07/2018 by appellant within 7 days. There is nothing on record produced by the PIO that the order of the FAA was complied by him.
11. The PIO in the present proceedings also failed to appeared and show as to why and how the delay in responding the application and/or not complying the order of FAA was not deliberate and/or intentional.
12. From the conduct of PIO it can be clearly inferred that PIO has no concern to his obligation under the RTI act or has no respect to obey the order passed by the senior officer. Such a conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant visa viz the intent of the RTI Act.

13. From the above gesture of PIO I find that entire conduct of PIO is not in consonance with the act. Such an lapse on the part of PIO is punishable u/s 20(1) and 20(2) of the RTI Act, however before imposing penalty I find appropriate to seek explanation for the PIO as to why penalty should be imposed on him for contravention of section 7(1) of the Act, of not compliance of order of FAA and for delaying the information.
14. I therefore dispose the present appeal with order as under:

ORDER

1. The Respondent no 1 PIO is directed to comply with the order passed by the FAA dated 31/07/2018 and also to provide complete information to the appellant as sought by him vide his application dated 03/04/2018, within 20 days from the receipt of this order by him.
2. Issue showcause notice to respondent PIO to showcause as to why no action has 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) of RTI act, for not complying the order dated 31/04/2018 passed by the FAA and for delaying furnishing the information.
3. In case the PIO at the relevant time, to whom the present notice is transferred, the present PIO shall serve this notice alongwith the order to him and produce the acknowledgment before this commission on or before the next date fixed in the matter alongwith full name and present address of the then PIO.
4. The respondent PIO is hereby directed to remain present before this commission on 1/11/2018 at 10:30 a.m. alongwith written submissions showing cause why penalty should be imposed on him/her.

5. Appeal proceedings disposed and closed accordingly. The registry of this commission is directed to open separate penalty proceedings.

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