

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

Shri Prashant S. P. Tendolkar,
State Chief Information Commissioner

Appeal No. 43/2018/CIC

Shri Nevil B. Furtado,
H.NO. 51, Copelwaddo,
Sernabatim, Salcete-Goa.
403 708
V/s

...Appellant

- 1) The Public Information Officer,
O/o the Village Panchayat of Colva,
Colva, Salcet –Goa.
- 2) The Block Development Officer,
2nd floor, Mathany Saldhana,
Administrative Complex,
Margao –Goa.
403602.

.....Respondents

Filed On: 15/02/2018
Decided On: 01/11/2018

O R D E R

- 1) The appellant herein by his application, dated 28/9/2017 filed u/s 6(1) of the Right to Information Act 2005 (Act for short) sought certain information from the Respondent No. 1, PIO in the form of certified copies and also inspection.
- 2) According to appellant said application was responded on 26/10/2017 requesting him to collect the document by paying charges which letter was sent by PIO, Mrs. Sunita Desai. According to appellant, on visiting the office he was not furnished information and the PIO present then, Smt Sandhya Shirodkar told him that information is not ready and that she had taken charge few days and to collect it

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on 13/11/2017. According to appellant the information as sought was not furnished. The appellant has contended that the said PIO Smt Sandhya Shirodkar had purposely delayed the information.

- 3) As information was not furnished within time appellant filed first appeal to the respondent no.2, being the First Appellate Authority (FAA), on 27/11/2017.
- 4) The FAA by order, dated 20/12/2017, allowed the said appeal and directed PIO to furnish the information. In spite of said order the PIO failed to furnish the information. The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.
- 5) Notices were issued to the parties, pursuant to which they appeared. The PIO Smt Sandhya Shirodkar on 04/04/2018 filed reply to the appeal. In her said reply it is her contention that the application u/s 6(1) of the act filed by appellant could not be attended since she was transferred in the following week. According to her the appellant visited but the information was not kept ready by former PIO. According to her, she kept the information ready but the appellant never turned up and that thereafter she was transferred on 15/11/2018.
- 6) The earlier PIO Smt. Sunita Desai also filed her reply. According to her she joined the Panchayat of Colva on 11/10/2017 and thereafter she found the

concerned application u/s 6(1) of the appellant that thereafter she directed the staff to trace the information but he took time to locate the information. According to her a letter of intimation was prepared on 26/10/2017 and entered in outward register but suddenly she was transferred and continued up to 31/10/2017.

7) The submissions of the parties were heard. In their submission the parties reiterated their stand as raised in their pleadings.

8) On perusal of the records I find that the information as was sought does not come under any of the exceptions contained in section (8)and/or (9) of the act. Being so I find that the information cannot be withheld and has to be furnished. I find no records to show that the information as was sought is furnished to the appellant. in this situation I find no hesitation to direct the present PIO, Village Panchayat Colva to furnish the information as sought by appellant vide his application, dated 28/09/2017.

9) Coming to the issue of penalty as prayed by appellant I find that for invoking such rights, the principals as laid down by the Hon'ble High Court in the case of **A. A. Parulekar V/s Goa State Information Commission and others, has to be followed. Such observation reads:**

“11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate.”

Thus delay in furnishing information should be deliberate and information should be deliberate and intentional. In the present case undisputedly the PIO was transferred within the period fixed u/s 7(1). The PIO therefore could not utilize the full period to respond. Which she was entitled to. Hence the delay if any cannot be held to be deliberate.

- 10) In the circumstances the appeal is partly allowed. The PIO, Village Panchayat Colva is hereby directed to furnish to the appellant the entire information as sought by him, vide his application dated 28/09/2017, within fifteen days from the date of receipt of this order free of cost.

Rests of the prayers are rejected. Proceeding closed.

Order to be Communicated.

Sd/-
(P. S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji - Goa