

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

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

Appeal No.46/2018/CIC

Shri Jawaharlal T. Shetye,
H. No.35/A Ward No.11,
Khorlim Mapusa –Goa. Appellant.

V/s

- 1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa – Goa.
- 2) The First Appellate Authority,
The Chief Officer,
Mapusa Municipal Council,
Mapusa – Goa. Respondents.

Filed on: 21/02/2018

Disposed on: 20/08/2018

O R D E R

1) The appellant herein has filed the present appeal making a grievance that he has not been furnished the information as sought. It is his contention that his application, dated 30/10/2017, filed u/s 6(1) of the Right to Information Act 2005, was not replied by PIO within time and the first appeal filed by him was not disposed. By this appeal the appellant has also prayed for invoking section 20(1) and 20(2) of the act as also for compensation.

2) In the course of this proceedings, on 09/05/2018 the PIO Shri Shivram Vaze filed reply to this appeal alongwith the response u/s 7(1) and copies of the purported information furnished to the appellant.

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3) The matter thereafter was posted for hearing on two occasions on which date the appellant remained absent there in no contention of the appellant on record that the information as furnished is not the true information. In the absence of such contention this Commission holds that the information as applied is furnished and no intervention of this Commission is required.

4) With reference to the relief of penalty as prayed for by the appellant it is the contention of PIO that the information sought was voluminous and pertains to various sections of the respondent Authority. The compilation of which took time. It is also his contention that the different section has separate, PIO and that he is the PIO of Engineering section but that of Administrative section, one Smt. Nazira Sayyad is the PIO. According to him the information's was to be compiled and hence the delay.

5) In the absence of any specific denial by appellant to the said contentions this Commission has no grounds to disbelieve the same. In this case as the information was to be supplied by two separate PIOs of same authority to a common application, the delay is contributory. No malafiedes can be attributed to any specific PIO.

6) Hon'ble High Court of Bombay, Goa bench at Panaji, in ***Writ petition No. 205/2007, Shri A. A. Parulekar V/s Goa State Information Commission and others***, while dealing with the nature of penalty under the act has observed:

“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.”

7) Besides the above factor, as held by the Hon'ble High Court of Punjab & Haryana in the case of Dalbir Singh V/s Chief Information Commissioner Haryana and others (CWP NO.18694 of 2011) in the case of the information sought was voluminous the dispensation of information cannot be expected within the time as prescribed. This Commission also notes that the appellant herein has several information sought from the same authority of the last several years, which has resulted in several second appeals and complaints before this Commission.

8) Considering the peculiar circumstances of the case and in the backdrop of the fact that numerous applications are filed by appellant before the same authority, by applying the ratio as laid down by Hon'ble Supreme Court in the following words ***Central Board of Secondary Education & another V/s Aditya Bandopadhyay*** (Civil Appeal no.6454 of 2011) at para 35 has observed :

9) “-----The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to

employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties."

This Commission is not inclined to consider the appellants prayer for penalty and compensation.

10) In the result the appeal stands dismissed. Proceedings closed. Notify parties.

11) Pronounced in open proceedings.

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