

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

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

Appeal No: 60/2018/CIC

Pandurang Porob,
House No. 61, Shapora,
Anjuna, Bardez,
Goa- 403509 Appellant

V/s

- 1) Shri Pradeep S. Naik,
Chief Officer (FAA),
Municipality Bicholim -Goa.
- 2) Shri Prashant Narvenkar,
PIO,Bicholim Municipality,
Bicholim-Goa. Respondents

Filed on: 12/03/2018

Complaint No:06/2018/

Shri Pandurang P. Parab,
House No.61, Shapora
Anjuna, Bardez Goa Complainant

v/s

Public Information Officer/
Municipal Engineer GRD-II,
Bicholim Municipal Council,
Bicholim-Goa. Opponent

Filed on: 22/01/2018

Both Disposed on: 12/07/2018

O R D E R

- 1) As both the above proceedings are arising out of a common application dated 01/12/2017 filed under section 6(1) of the Right to Information Act 2005 (Act for

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short) and between the same parties, both the above proceedings are disposed by this common order.

- 2) The facts in brief which arises herein are that the appellant/complainant filed an application on 01/12/2017 u/s 6(1) of the act seeking information from the PIO, Bicholim Municipal Council. The information which was sought were the “certified copies of the title documents submitted to obtain licence” by one Shri Sunil S. Bukde.
- 3) According to appellant/complainant the said application was not responded by PIO within the stipulated period and hence he sent a letter to PIO on 29/12/2017 reminding him of the said application. In spite of said reminder no information was furnished. Considering the same as refusal he filed first appeal to First Appellate Authority (FAA) on 01/01/2018.

According to appellant the PIO, by his letter posted on 02/01/2018 and received by appellant/complainant on 03/01/2018, called the appellant to collect the information. According to Appellant/complainant by sending said letter the PIO is trying to shield him against first appeal.

- 4) The appellant/complainant has further pleaded that the first appeal was not decided by the FAA till the date of filing this appeal, within the stipulated time and hence has approached this commission by the above second appeal u/s 19(3) of the act as well as the above complaint u/s 18 of the Act.
- 5) As both the above proceedings are related common hearings were held after notifying the parties. The PIO filed his reply.

6) According to PIO, on receipt of the application u/s 6(1) and the reminder of appellant on 29/12/2017, he responded the appellant on 29/12/2017 informing him to collect the information on payment of Rs. 66/- as the fees. According to him the response was sent within time, though was received on 03/01/2018.

It is further according to PIO that he was holding additional charge of Sanquelim Municipal Council and in view of said additional charge he could not give sufficient time to the application in question.

7) In the course of hearing on 26/04/2018 the Advocate for PIO filed on record the copies of information which PIO has offered to the appellant/complainant. Arguments on behalf of the parties were heard.

8) According to appellant/complainant the PIO was liable to furnish the information within 30 days, which he failed to do. According to him even if the information was offered to him it was after the due date and only to save him from first appeal. He has also a grievance against the FAA for not disposing the first appeal, till date even after issuing notice.

Regarding the information furnished to him, the appellant stated that only form I & XIV and deed of sale are given, but the copy of TCP plan and approval not given but the and that he came to know regarding filing of these later from another seeker.

9) In response to the appellant/complainant's arguments it is submitted on behalf of PIO that the application was responded on 29/12/2017 and received by appellant on 03/01/2018 inspite of which the appellant/complainant

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failed to received the copies. He further attributed the delay in responding to his additional charge with Sanquelim Muncipal Council.

With regards to the Information furnished, he submitted that appellant/complainant has sought only title documents submitted, and the ones which are furnished are the only title documents and the remaining two, which he refers to are not title documents.

10) This Commission after perusing the records finds that by his application dated 01/12/2017 the appellant/complainant has sought the copies of "title documents" submitted by Shri Sunil Bukde to obtain licence. The grievance of appellant is that he is not furnished with TCP plan and approval, which this Commission finds is beyond his application. Said documents are not title documents but are only technical approvals from other authority. This Commission therefore find force in the submission of the PIO, that being title documents only the licence, form I & XIV and deed of sale was furnished.

However this by itself does not deprive appellant complainant from seeking copies of said plan and approval from TCP, which according to him are not furnished to him. But for the purpose of this appeal Commission holds that the information as sought is furnished.

11) The Appellant/complainant has sought for invoking penal action against the PIO for delay caused in furnishing information. Admittedly the application was filed on

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01/12/2017 with the PIO. The information was therefore required to be furnished or rejected on or before 31/12/2017 being the 30th day. In the present case it is an undisputed fact that intimation to deposit fees for information is posted on 02/01/2018 and received on 03/01/2018. Assuming for a while that the same was sent only to protect PIO from first appeal, the fact remains that the information was offered on 02/01/2018, which is two days beyond the stipulated period, which appears to be marginal.

12) High court of Bombay Goa bench at Panaji in *Writ petition No.704 of 2012 Public Authority, Office of Chief Engineer, Panaji v/s Shri Yeshwant Tolio Sawant* while considering the slope for imposing penalty has observed.

“6.However in the present case, the learned Chief Information Commissioner has himself noted that the delay was marginal and further the PIO cannot be blamed for the same. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such penalty is a blot upon the career of the Officer, at least to some extent. In any case the information was furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO.”

- 13) The case in hand is akin to the above case and the ratio laid down therein would be squarely applicable to the one in hand.
- 14) In the above circumstances and considering the facts involved herein, Commission finds no grounds to invoke its rights either under section 20(1) and/or 20(2) of the act. In the result Commission finds no merits in the appeal.

The above appeal no. 60/18/CIC therefore stands dismissed. However the rights of the appellant/complainant to seek further information on the subject, are kept open.

The complaint no 6/2018/CIC stands dismissed.

Notify parties

Proceeding Closed.

Pronounced in open hearing.

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

