

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

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

Appeal No.69/SCIC/2016

Shri. Jawaharlal T. Shetye,
Hno.35/A, Ward No.11
Near Sateri Temple,
Khorlim, Mapusa Goa
403507.

....Appellant

V/s

- 1) The Public Information Officer
Administrator of Comunidade (North),
Mapusa-Goa.
- 2) The Clerk
Comunidade of Khorlim,
Near the Church
Mapusa Goa
- 3) First Appellate Authority,
Additional Collector-II,
Collectorate of North Goa District,
Panaji-Goa.
403001

....Respondents

Filed on: 26/04/2016

Decided on:12/12/2018

O R D E R

- 1) The appellant by his application dated 08/01/2016, filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought information from the PIO, the respondent No. 1 herein. As the required information was not furnished, the appellant filed first appeal to the First Appellate Authority (FAA), the respondent no.3 herein but till date of this second appeal no order was passed hence he filed this second appeal u/s 19(3) of the Act.

...2/-

In the present appeal as also in the first appeal before FAA, the appellant has joined the clerk of Comunidade of Khorlim as a party, who is arrayed herein as respondent no.1.

- 2) On notifying the parties the PIO as also the FAA filed reply. PIO in his reply submitted that on receipt of the application , the information was sought from the clerk of comunidade of Khorlim. In spite of said demand the information was not submitted. On subsequent directions to the clerk in view of his appeal, the said information was submitted, which is furnished to appellant.

The FAA also filed reply inter alia stating that the first appeal was finally disposed on 23rd June 2017. Copy of the said order is also filed on record by the FAA. As the said first appeal was not disposed by FAA within time granted to it under the act and in view of the fact that this second appeal was already filed before the disposal of said first appeal, the order passed by FAA is redundant.

- 3) In the course of hearing of this appeal on 19/09/2018, the appellant admitted that he has received the information and that he is pressing only the relief of penalty.
- 4) Considering the above situation I find no reason to decide the issue regarding furnishing of information and what is required to be decided is only the point of delay and penalty relating to delay.

...3/-

5) It is on record that the information as was sought was delayed due to its submission by the clerk of Comunidade. On perusal of the memo sent by PIO on 15/01/2016, it is seen that the PIO has sought the assistance of the clerk u/s 5(4) of the act and consequently he becomes a deemed PIO u/s 5(5) of the act. Said clerk was joined as a party respondent in the first appeal as also herein. He has not filed any reply herein inspite of service.

Considering the records, it is prima facie seen that the delay is caused due to non submission of the information by clerk inspite of the direction of PIO. In such case the clerk would be liable for penalty. However before imposing any penalty it would be appropriate that said clerk, as deemed PIO is granted opportunity to show cause.

6) In the above circumstances I hold that the information as sought is furnished. The concerned clerk of Comunidade of Khorlim , as on 15/01/2016 is hereby directed to show cause as to why penalty as contemplated u/s 20(1) and/or 20(2) of the Right to Information Act 2005, should not be initiated against him/her.

7) The PIO shall serve copy of this order on the concerned clerk as on 15/01/2016, and produce the acknowledgment, thereof along with a memo giving his name and present address on the next date of hearing. The concern clerk to file his reply in person on **08/01/2019** at **10.30 am** alongwith documents in support, if any.

...4/-

If no reply is filed, it shall be held that the concerned clerk has no say to be offered and further appropriate orders shall be passed.

Appeal disposed. Penalty proceeding to be initiated.

Sd/-

(Shri. P. S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji –Goa