

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Complaint No. 15/2018/SIC-I

Shri Longuinhos Fernandes,
H.No. 325, Desterro Waddo,
Near El-Monte Theatre,
Vasco-Da-Gama, Goa.

.....Complainant

V/s.

1. Public Information Officer (PIO),
Mormugao Municipal Council,
Vasco-da-Gama,Goa. 403 802.
2. First Appellate Authority (FAA),
Chief Officer,
Mormugao Municipal Council,
Vasco-da-Gama,Goa. 403 802.
3. The Director
Directorate of Municipal Administration,
Collectorate Building,
Panaji Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 14/02/2018

Decided on: 10/08/2018

ORDER

1. This order disposes the present complaint filed by Shri Longuinhos Fernandes u/s 18 of the RTI Act, 2005. The brief facts of the present complaint are as under;
2. This commission vide order dated 1/11/2017 passed in appeal No. 45/17 had directed the respondent No. 3 to conduct the inquiry regarding the missing files, to fix responsibility for the said missing files and to file FIR against the responsible person with the Police. Vide said order the commission also directed the public authority i.e Mormugao Municipal council to conduct inventory of the records and to take appropriate steps to preserve the same.

3. The complainant have approached this commission on 14/2/2018 in the present complaint against respondent No. 1 PIO, respondent No. 2 FAA and respondent No. 3 Director of Municipal Administration with the contention that above Respondents failed to comply the order of this commission dated 1/11/2017.
4. In the present complaint the complainant has sought for directions for providing him the information free of cost, disciplinary action against the Respondent and for compensation .
5. In pursuant to the notice issued by this commission, respondent no. 1 PIO and Respondent No. 2 FAA opted to remain absent despite of due service of notice. Respondent No. 3 was represented by Subhash Mhalsekar who filed reply on behalf of Respondent no. 3 on 10/8/2018 . A inquiry report alongwith enclosure were also submitted to this commission. The copy of the reply and inquiry report was furnished to the complainant .
6. Vide reply Respondent No. 3 have contended that due inquiry have been conducted regarding the said missing files based on the records available with the council and copy of the inquiry report is furnished to complainant.
7. It is further submitted that delay in conducting inquiry was mainly because of various administrative reasons and that there were no mal intentions on their part in complying the directions of this commission.
8. I have considered submission and also records available in the file.
9. Prayer (a) and (b) as sought by the appellant cannot be granted as no information can be provided in the complaint case as held by
The Hon'ble Apex Court in the case of ***Chief Information Commissioner and another v/s State of Manipur and another (civil Appeal No. 10787-10788 of 2011)*** and by the High Court of Karnataka At Bangalore in writ Petition No. 19441/2012 and Writ Petition Numbers 22981 to 22982/2012 C/W

Writ Petition No. 24210/2012 and Writ Petition Numbers 40995 to 40998/2012 (GM-RES) Between M/s Bangalore Electricity Supply Company Limited. V/s. State Information Commissioner, Karnataka information Commission.

Besides the said issue pertaining to the RTI Application dated 7/9/2016 filed by appellant was finally decided in appeal proceedings bearing No. 46/2017 by order dated 1/11/2017 and as the files are missing the commission had ordered the inquiry hence the principle of resjudica will apply to the facts of the present case and the said issue cannot be dealt again.

10. It is pertaining to mention that the in order of this Commission dated 1/11/2017, there were no any direction were given to respondent No. 1 PIO and respondent No.2 FAA as such the question of imposing penalty for noncompliance of this commissions order does not arise at all.
11. The Respondent No. 3 Director of Municipal Administration have conducted inquiry and the copy of the report of such inquiry have been submitted to appellant. The only lapse on the part of Respondent No. 3 is that no extension of time was sought for conducting the inquiry at the initial stage but subsequently sought vide application dated 23/7/2018. Never the less since the said inquiry report is now being submitted to appellant and as inventory of records have been purported carried out by Public authority i.e Mormugao Municipal Council, as submitted by Shri Subhash Mhalsekar I find no intervention of this commission is required thereto.
12. For the reasons discussed above, I am of the opinion the facts of the present case doesn't warrant levy of penalty on all three respondents as such the relief sought at prayer (c) cannot be granted.
13. The complainant also prayed for compensation. Considering the provisions of the Act the said cannot be granted in the present

proceedings being a complaint which is beyond the purview of section 19(8) (b) ,2005.

14. With the above observation the complaint stands dismissed.

Notify the parties.

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.

Pronounced in the open court.

Sd/-

(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa