

GOA STATE INFORMATION COMMISSION

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

Complaint No. 40/2017

Mr. Nitin Y. Patekar,
Oshalbag, Dhargal,
P. O. Colvale, Goa. 403513

..... Complainant

V/s.

1. Public Information Officer (PIO),
O/o Mamlatdar Pernem,
Pernem Goa. 403512

..... Opponent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 26/12/2017

Decided on: 8/03/2018

ORDER

1. The present complaint is filed by Shri Nitin Y. Patekar against the PIO of Mamlatdar, Pernem, on 12/12/2017 on the ground that the order of this commission dated 28/6/2016 passed in appeal No. 27/SCIC/2014 have not been complied by the respondent PIO.
2. In pursuant to the notice issued by this commission, the complainant was present in person . The present PIO Shri Ishant Sawant along with then PIO Shri Rajesh Ajgaonkar appeared .
3. Reply filed by Respondent PIO on 8/2/2018 and by then PIO on 20/2/2018. The copy of the reply is furnished to the complainant .
4. Arguments were advanced by both the parties.
5. It is the case of the complainant that he in pursuant to the order of this commission dated 28/6/2016 approached the Circle Inspector and the Head Clerk of the office of PIO in connection with the inspection of the file pertaining to Bharat Petrol pump and the Head Clerk and the Circle Inspector gave him irrelevant answers. It is the further contention that vide letter dated 31/10/2016 informed

the said fact to the PIO of office of Mamlatdar, Pernem and requested him to give the inspection of files pertaining Bharat Petrol pump.

6. It is the contention of the present PIO Shri Ishant Sawant that he had taken the charge on 20/9/2016 and he was not officiating as the PIO when the judgment was passed by this commission. It was further contended that the matter came to his notice only when the letter dated 31/10/2016 were inwards by the complainant and accordingly the reply was sent to the applicant on 10/11/2016 requesting him to attend their office for inspection of the file . It was further contended that the letter dated 10/11/2016 was sent for service through the Talathi of Dhargal however the said letter was returned unserved by the concerned Talathi with a remark that " the house of concerned person was locked about 11.00 am on 17/11/2016".
7. It is contention of the then PIO Shri Rajesh Ajgaonkar that complainant never approached him during the period of 60 days. He further contended that he was not officiating as PIO when letter dated 31/10/2016 was made by complainant.
8. Never the less the bonafide also have been shown by the present PIO in once again offering him inspection vide letter dated 10/11/2016 and even in reply dated 8/2/2018 given before this commission.
9. In the nutshell it is the contention of both the PIOs that there is no deliberate or intentional negligence on their part and the complainant have neither met them at any time except for the letter which was inwards on 31/10/2016.
10. I scrutinize the records available in the file also consider the submission of both the parties .
11. The Commission vide order dated 28/6/2016 had granted liberty to appellant to approach Respondent PIO within 60 days for the

purpose of inspection of file/documents in respect of Bharat Petrol Pump. Thus a time limit was fixed by this commission to approach the PIO for carrying out the inspection.

12. Vide his written argument filed on 1/3/2018, Complainant claimed that he had met the PIO after 15 days from the receipt of the order and PIO had told him to meet Circle Inspector and Head Clerk. Further it is contended that he had visited again twice in the month of August and in the month of September and he was informed that the files are not traceable. He further contended that he had suffered physically and mentally for the act of the PIOs. He further contended that he is residing in joint family alongwith his cousins as such his house is never closed and stand of PIO that Talathi found his house closed cannot be believed.
13. Since the above issues were raised by Complainant as such the onus was on him to prove or substantiate such facts. In the present case, the said facts are not being affirmed by way of affidavit. The complainant has not specified the dates on which he approached the then PIO or Circle Inspector or Head Clerk. His said statement is also not substantiated by any documentary evidence. No averments of such facts are also made in the memo of appeal as such appears to have been made after thought.
14. Whereas the replies given by both the PIOs appears to be probable and convincing as the same are supported by documents. Since there is not sufficient and convincing evidence placed on record by complainant, as such I hold that this is not a fit case for awarding penalty as against the opponents. As such the relief sought by the Complainant cannot be granted.
15. The complaint disposed accordingly. Proceedings stands closed.

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

Ak/-