

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Complaint No. 18/2018/CIC

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

...Complainant

V/s

- 1) The Public Information Officer,
O/o Village Panchayat Dhargal,
Pernem- Goa.
- 2) The First Appellate Authority,
O/o Block Development Officer,
Pernem-Goa.

...Opponent

Filed on: 28/03/2018

Decided on: 20/08/2018

O R D E R

- 1) This commission by notice dated 03/04/2018, has directed the PIO herein to show cause as to why penalty as contemplated u/s 20(1) and/or 20(2) of the Right to Information Act 2005 (Act for short) should not be initiated against him.
- 2) It is the contention of Complainant that by his application dated 21/10/2017 filed u/s 6(1) of the act, he sought information from opponent no. 1 (PIO). The same was responded on 14/11/2017 by seeking advance payment. That on 22/11/2017 the PIO furnished 26 copies.

The complainant filed first appeal, however the present complaint is silent whether the same is disposed or not. In this complaint he has prayed for information as also for penalty against the PIO.

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- 3) The PIO filed reply to the notice on 11/06/2018. Vide his reply it is the contention of PIO that the complaint is not maintainable and that it is filed to harass PIO and that the application filed by complainant was vague.

By referring to sequence of events, the PIO has stated as to how the information was furnished. According to him the information to which PIO hold access was furnished. The PIO has also referred, to certain circular issued by Director of Panchayat regulating the procedure for tendering etc. However said statement is redundant for this Complaint.

- 4) Perused the records and considered the rival contentions. The application u/s 6(1) was filed on 21/10/2017 and the same was responded by PIO on 14/11/2017, by calling upon the complainant to pay the fees for information. The PIO has replied the application u/s 6(1) vide his reply dated 14/11/2017 seeking deposit of fees. Thus this commission does not find any delay in response u/s 7(1) of the act. Admittedly according to complainant, information containing 26 pages was received by him on 22/11/2017.
- 5) In the said response the information to point (1) is furnished as not applicable and clarified that it is a clerical error. Regarding point (2) it is informed that the said property falls within jurisdiction of Village Panchayat Dhargalim. In respect of point (3) regarding action taken, it is informed that demolition order is issued and copies of tender notices are furnished to complainant as annexure A.

6) In the present complaint it is the contention of complainant that the information at point 1 and 2 is not correct. However the complainant has not clarified as to how the same is incorrect. In the absence of any specific grounds, commission is unable to conclude that the information is not correct. The complainant has also not filed any appeal seeking further information.

7) 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:

“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.”

8) Considering the above findings and the ratio laid down by the High Court as above, this commission finds no grounds to hold that the action of PIO in dealing with the application u/s 6(1) was malicious.

9) In the result complaint is dismissed. The show cause notice dated 03/04/2018 issued by this commission stands withdrawn. Right of Complainant to seek information based on clarification furnished by PIO herein, are kept open.

Proceedings closed. Notify parties.

Pronounced in open hearing.

Sd/-

(Shri. P.S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji –Goa