

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

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

Complaint No: 19/SCIC/2018

Shri Jawaharlal T. Shetye,
H.NO.35/A Ward No.11,
Nr. Sateri Temple,
Khorlim, Mapusa –Goa.
Pin: 403507.

..... Complainant

V/s

- 1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa –Goa.
- 2) The First Appellate Authority,
The Chief Officer,
Mapusa Municipal Council,
Mapusa Goa.

..... Respondents

Filed on :28/07/2017

Disposed on:16/05/2018

O R D E R

- a) The complainant herein by his application, dated 27/1/2017, filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under several points therein.
- b) According to complainant the said application was not responded to by the PIO within time and as such deeming the same as refusal complainant filed first appeal to the First Appellate Authority (FAA).
- c) The FAA, by order, dated 19/4/2017, allowed the said appeal and directed PIO to furnish the information free of cost.

...2/-

d) According to complainant till date of complaint the information was not furnished and hence he has therefore landed before this commission by way of complaint u/s 18 of the act .

In the complaint the complainant has prayed for direction to furnish the information as also to impose punishment u/s 20(1) and (2) of the act.

e) Considering the averments of the complainant notice was issued to the PIO to show cause as to why penalty as contemplated u/s 20(1) and/or 20(2) of the act should not be initiated against him. Pursuant to which PIO appeared and filed reply to the complaint.

f) Perused the records and considered the submission of the parties. In the present case according to the complainant in the complaint memo the application was filed by him on 27/01/2017. In the complaint it is his contention that the same was not responded by the PIO with in the stipulated time.

However on considering the submission of the complaint before the FAA, which is recorded in the proceeding sheet of the first appeal, it was the contention of complainant that PIO had called upon him to pay the fees of Rs.2000/- by letter, dated 24/2/2017 but the same was received by complainant on 28/02/2017. This submission of the complainant before the FAA not found in the present complaint. It appears that the same are conveniently avoided apparently making this commission believe that the application u/s 6(1) was never responded at all. Thus I find that there is gross suppression of the facts in this complaint.

f) In the reply filed by the respondent in this complaint the said letter dated 24/02/2017 is filed on record. If one peruses the said reply, it demand for payment of fees under section 7(3) (a) of the act. Though it is contended by the complainant that the same was received on 28/02/2017, delay cannot be attributed to the PIO.

Even otherwise if one considers the date of application of the complainant under section 6(1), by excluding the first day of application as required under section 14 of The Indian Limitation Act, the receipt of the said demand letter dated 24/2/2017 on 28/02/2017 was within time.

g) On the behalf of the PIO it is pleaded that initially by letter, dated 24/02/2017 the demand for fees were made but in view of the order dated 19/04/2017 passed by the FAA the information was furnished free of cost. The relevant correspondence is produced on record. The complainant has not disclosed several material facts before this commission and has approached with this complaint with unclean hands.

h) While deciding the first appeal the FAA has not considered the material legal proposition that in computing the period of limitation the date of filing of the application was required to be excluded. Thus the FAA has acted mechanically based on the statement of the complainant without actually considering the facts before him. Such an approach has resulted in loss to public exchequer. The act does not provide for free information as a right but the same is available only in certain cases. In the present case the complainant had not made out any case for free information.

i) In the above backdrop, I find no merits in the complaint as there was neither delay in furnishing the information nor there appear any intention on the part of PIO to avoid information or delay the same. In the circumstances I find no grounds to proceed with the notice and the same is required to be withdrawn.

In the light of the above the complaint stands dismissed. Show cause notice, dated 11/9/2017 stands withdrawn. Proceedings closed.

Notify the parties.

Pronounced in the open proceedings.

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