

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

Penalty No.39/2018
In
Appeal No.187/2018/SIC-I

Mrs. Lucy D'Mello,
R/o. H. No.6/260,
Khobra waddo, Calangute,
Bardez Goa.

.....Appellant

V/s

1. Public Information Officer,(PIO)
Village Panchayat of Calangute,
Calangute, bardez Goa.

.....Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 03/10/2018

ORDER

1. This Commission , vide order dated 6/9/2018 , while disposing the above appeal, had directed the Respondent no.1 , PIO to comply with the order passed by the FAA dated 14/5/2018 and to provide the information as sought by the appellant vide his application dated 27/2/2018 within 20 days from the date of the receipt of the order and vide same order had directed to issue Showcause to respondent PIO as to why no action as contemplated u/s 20(1) and /or 20(2) of the RTI Act, 2005 should not be initiated against him for contravention of section 7(1), for not complying the order of first appellate authority and for delay in furnishing the information.
2. In view of the said order passed by this commission, on 6/9/2018 the proceedings stood converted into penalty proceedings.
3. Accordingly showcause notice was issued to the PIO on 7/9/2018. The PIO despite of due service of showcause notice, did not bother to appear neither filed any reply to the said showcause notice despite of giving him opportunities as such it is presumed and hold that the PIO has got no say to offer and the averments of the appellant are not disputed by the PIO.

4. On account of continuous absent of Respondent PIO in appeal proceedings so also in present penalty proceedings, and by considering the previous conduct of PIO it appears that he was never interested in contesting the first appeal, so also the 2nd appeal, as such this commission felt it appropriate and had no any alternative then to hear the arguments of the appellant.
5. Advocate Gautam Digvekar appeared on behalf of appellant and submitted that he has been knocking the doors of different authorities to get the said information which was sought by the appellant with the specific purpose in order to redress his grievances before appropriate forum. He further submitted that lots of his valuable time and energy has been lost in pursuing his application. It is his specific contention that the PIO has intentionally and deliberately have not provided information with malafide motives.
6. I have considered the records available in the file and also considered the submission made by the appellant.
7. It is seen from the records which is gone undisputed that application filed by the appellant u/s 6(1) of the Act, the PIO has not bother to reply the same leave aside furnishing the information. In the first appeal filed before the Respondent No. 2 First appellate authority, the observation were made by the First appellate authority that Respondent PIO was absent during the hearing inspite of notice duly served upon PIO and that the opportunity was given to PIO to file his reply. The Respondent No. 2 First appellate authority have also arrived at the conclusion that the respondent PIO have not furnished the information to the appellant within the period of 30 days as stipulated in the RTI Act, neither bother to give any reply to the appellant in response to his RTI Application and hence the First appellate authority passed an order dated 14/5/2018 directing the PIO to furnish the information as sought by the appellant vide his application dated 27/7/2018 within 10 days free of cost, from the date of receipt of the order.

8. The said order passed by the First appellate authority has not been also complied by Respondent PIO.
9. From the letter dated 1/6/2018 addressed to the Block Development officer by the appellant reveals that the judgment and order dated 14/5/2018 was delivered personally upon village panchayat by appellant himself and despite of same the PIO failed to execute the said order passed by the First appellate authority despite of his visit to the office of PIO. In the said letter he had once again requested to direct PIO to comply with the said order dated 14/5/2018.
10. The records reveals that on receipt of the said application dated 1/6/2018, The Respondent NO. 2 First appellate authority by memorandum dated 7/6/2018 again directed Respondent no. 1 PIO to execute the order passed by him dated 14/5/2018, despite of such memorandum still the PIO did not bother to adhere to his instruction nor bothered to execute his order passed in first appeal.
11. It is clear from the conduct of PIO that he has no respect to abide the order passed by the superior officers . Such a conduct of PIO is obstructing transferacy and accountability appears to be suspicious and adamant vis-a -vis the intend of the act.
12. Irresponsible attitude of the PIO is further evident for the lack of participation in the first appeal filed by the appellant before Respondent No. 2 , in a second appeal before this commission and also during the present penalty proceedings.
13. The conduct of PIO is herein condemnable. PIO should always keep in mind that their service are taken by the Government to help and serve the people of the state in particular and the people of country at large and the objective and the purpose for which the act came into existence.
14. It the correct and timely information was provided to the appellant it would have save valuable time and the hardship caused to him in

pursuing his appeal before different authorities. It is quite obvious the appellant has suffer lots of harassment and mental torture and agony in seeking information under the RTI Act . If the PIO had given prompt and correct information such harassment and detriment could have been avoided. Such an attitude of PIO no doubt requires stringent deterrent action

15. The Hon'ble Gujarat High Court in special civil Application No.8376 of 2010 case of Umesh M. Patel V/s State of Gujarat has held at relevant para 8 and 9 .

“Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty.”

16. Yet in another case the Hon'ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission while maintaining the order of commission of imposing penalty on PIO has held;

“Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.”

17. The Hon'ble Bombay High Court Goa bench in writ petition No.304/2011 Johnson V. Fernandes V/s Goa State information commission; AIR 2012 Bombay 56 has observed, at para 6

“Nothing prevented the petitioner for furnishing the information to Respondent de-hors the appeal. In fact, if the petition is intended to furnish the information to Respondent (information seeker) he could have communicated it without waiting for Respondent No. 2 (appellant) to file an appeal.”

18. In the High Court of Punjab and Haryana. In Civil Writ Petition No. 14161 of 2009 Shaheed Kanshi Ram Memorial... V/s State Information Commission .

“ As per provisions of the Act, Public Information Officer is supposed to supply correct information, that too, in a time bound manner. Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference”.

19. In the above given circumstances and in view of the ratios laid down by above courts and also considering the conduct of PIO, I find that the PIO has malafidely and without and reasonable cause persistently failed to furnish the information and failed to show as to how and why the delay in responding the application and /or not complying the order of First appellate authority was not deliberate and /or no intentional and as such I find this is a fit case for imposing penalty on PIO. Hence the following order is passed

ORDER

1. The Respondent PIO is hereby directed to pay a sum of Rs. 10,000/- as penalty for a contravention of 7(1) of RTI Act, for not complying the order of FAA and for delay in furnishing the information.
2. The aforesaid total amount payable as penalty shall be deducted from the salary of PIO in five equal installment and

the penalty amount shall be credited to the Government Treasury.

3. The copy of the order shall be sent to the Director of Accounts, Panaji and Director of Pachayat Panajim and to concern Block Development Officer for information and implementation.

With the above directions the above penalty 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