

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Penalty 05/2018
In
Appeal No.180/2017

Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Near Sateri Temple,
Mapusa-Goa.

.....Appellant

V/s.

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

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on:12/02/2018

ORDER

1. This Commission Vide order dated 17/01/2018, while disposing the above appeal directed to then PIO Smt. Nazeera Sayed to Showcause as to why penal action as contemplated u/s 20(1) and 20(2) of the Right to Information act 2005 should not be initiated against her for contravention of section 7(1) of RTI Act 2005 and for delay in furnishing the information .
2. In view of said order passed by this commission on 17/1/2018, the proceedings should converted into penalty proceedings .
3. In pursuant to the said order showcause notice was issued to then PIO on 25/1/2018 .
4. The Then PIO Smt. Nazeera Sayed appeared and filed her reply on 5/2/2018.
5. Vide said reply she contended that the available information at serial no. 1, 2, 5 and 6 were provided to the appellant on

17/10/2017 and the remaining documents were provide to the appellant on 15/3/2017. It was also contended she had to do work as Head Clerk and also had other charge of Sr. Steno and as such she remained busy carrying out the work of writing and maintaining of council minutes and various functions such as celebration of 15th August, Gandhi Jayanti, 26th January had to be organized by her and due to lack of time she could not compile the information within time limit. It is her contention that the delay was not intentional and deliberate.

6. I gone to the records, the appellant has filed application u/s 6(1) of RTI Act on 4/8/2017. The said application was not responded by the Respondent PIO within time as contemplated under RTI Act. Under section 7(1) of the RTI Act, PIO is required to respond the same on or before 30th day. In the present case, it is found that the PIO has not responded to the application of the Appellant with the said stipulated period either by furnishing the said information or rejecting the request. It is also not the case of PIO that the information has been furnished to the Appellant or that he has responded to his application. From the records it is found that the first time the part of the information furnished to the appellant on 17/10/2017 after the first appeal was filed by the appellant, and complete information came to be furnished on 1/1/2018. There is a delay in furnishing the information.
7. The PIO has tried to justified the delay. However the same is not supported by any documentary evidence. As such I am not convinced and satisfied with the grounds mentioned by her in her written synopsis.
8. 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 “.

The facts in the said case information was supplied for the first time before the first appellate authority The Hon’ble High Court dismissed the appeal of the PIO by upholding the order of this commission wherein the penalty of Rs. 2000/- was awarded for failure to supply information in accordance with the provisions.

9. Yet in another decision reported in AIR 2013 Calcutta 128 in writ petition (c) No. 18653(w) of 2009 Madhab Kumar Bandhopadaya V/s State information Commission at relevant para 22 has held;-

“ I am unable to accept that once the petitioner complied with the order of the Commission dated January 9,2009, through belatedly, penalty under S. 20(1) of the Right to Information Act, 2005 could not be imposed on him, Nor do I see any reason to accept the argument that in each and every case the Commission is not supposed to impose Rs. 250 penalty per day”.

10. The ratio laid down by above courts are fairly applicable to the facts of the present case. The information came to be furnished to the appellant after the stipulated period as contemplated u/s 7(1) of the Act. The part of the information was furnished after the first appeal was filed and complete information was furnished during the present proceedings.
11. The Appellant have been made to run from pillar to post only to get information. Public Authority must introspect that non furnishing of the correct or incomplete information lands the citizen before FAA and also before this Commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.

12. It is observed that Respondent No. 1 then PIO have not justified the delay in supplying the complete information to the Appellant. And also failed to show sufficient cause as to why action should not be taken against her. As such I find that this is a fit case for imposing penalty to then PIO Smt. Nazeera Sayed. However since there is nothing brought on record by the appellant such an lapse on the part of the PIO is persistent, a lenient view is taken in the present matter .
13. In the above given circumstances following order is passed

ORDER

- a. The then PIO, Smt. Nazeera Sayed is hereby directed to pay a sum of Rupees 2000/- (Rupees Two Thousand only) as penalty for delaying the information .
- b. The aforesaid total amount as penalty shall be deducted from the salary of then PIO Smt. Nazeera Sayed and the penalty amount shall be credited to the Government Treasury.

Copy of this order is to be sent to Director of Accounts, Panaji, for information and implementation.

Penalty proceedings dispose off accordingly. Pronounced in open proceedings. 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.

Sd/-

(Ms. Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

Kk/-

