

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

Penalty 07/2018
In
Appeal No.182/2017

Shri Kashinath Tari,
Ramnath Apartment,
B-2, F-1, Shankarwadi,
Taleigao-Goa.

..... Appellant

V/s.

1. Public Information Officer
North Goa Planning & Development authority,
Mala Panaji Goa.

..... Respondent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on:29/03/2018

ORDER

1. This Commission while disposing the above Appeal vide order dated 22/01/2018 had directed to issue show cause notice to the PIO R. K. Pandita u/s 20(1) of RTI Act for not responding application within stipulated time and for delaying the information . vide said order a showcause notice was issued to the Public Authority concern herein i.e the office of North Goa Town and country Planning Department, Mala, Panaji as to why it should not be ordered to compensate the appellant as contemplated u/s 19(8)(b) of the Right to Information Act, 2005.
2. In view of the said order the proceedings should converted into penalty proceedings.
3. In pursuant to the said Showcause notice,dated 1/2/2018 the PIO R.K.Pandita was present along with Advocate H. Naik and filed his reply on 22/2/2018. On behalf of public authority reply is filed on 1/3/2018.
4. Arguments were advanced by Advocate H. Naik and also filed written synopsis on 23/3/2018 on behalf of both the Respondents.

5. I have scrutinized the record available in the file and also considered the submissions of the parties.
6. The PIO has contended that he has responded the application of the applicant within 30 days and requested to appellant to provide specific reference of the permission granted by NGPDA. It was further contended that in pursuant to the appellants letter dated 1/12/2016, the PIO alongwith the other staff made through search and made every attempt to trace the relevant file however they could not trace out the relevant file. It was further contended that since the information was not traceable the same could not be provided to the appellant and the letter to that effect remained to be address to the appellant. It was further contended even such a letter was addressed by Respondent no. 1 it could have only mentioned the fact that the files could not be traced. It was further contended that during the pendency of the first appeal also he along with other officials continued the efforts to trace the relevant file and some where in august 2017 he was able to trace the file and as such the letter dated 22/8/2017 was made to the appellant. It was further contended that even after the appeal came to be filed before this commission he alongwith other officials tried to trace the other two files however could not locate the same.
7. In the nutshell it is the case of the Respondent PIO that the information sought pertains to year 2004 and it is only on account of that files are not traceable he was unable to provide the information to the appellant. It was further contended that provision of section 20(1) is not applicable as the file is not traceable and therefore it cannot be said that PIO has not furnished the information malafidely or deliberately. It was further contended that he was under bonafide belief that he will carry search of the files in respect of which information was sought and only thereafter provide information as such it is his contention that he has not replied to appellant within 30 days time.

8. On scrutinizing the records it is seen that the part of the information came to be furnished to the appellant on 13/12/2017. The other information was not furnished on account of not traceability of the files. There is a delay approximately 11 months in providing part of the information. The Respondent PIO did not bother to respond to the letter of the appellant dated 1/12/2016, nor intimated the appellant at the initial stage itself that the records are not traceable and efforts have been made to trace the records. The reply of the Respondent PIO is also not supported by the affidavits of the other officials of the said authority, who had assisted him in locating the file nor he elaborated what was the steps taken by him and when it was taken.
9. It appears that Respondent PIO belatedly, has taken exercise of tracing the files and was successful in tracing one of the file bearing No. PPDA/TIS/DEV/248/350/04 dated 16/4/2004. If the said exercise would have taken at initial stage itself the hardship caused to the appellant who is an senior citizen could have been avoided. However in the present matter lenient view is taken against PIO as he has taken efforts and has showm his bonafides in locating one file and providing the said information to the appellant. PIO is hereby directed to be vigilant henceforth while dealing with RTI matters and to act in conformity and in true spirit of RTI Act, 2005.
10. It is submitted on behalf of Public authority after one file was traced the appellant was requested to visit the office and collect the information which appellant failed to do so.
11. However the facts remains that the appellant had sought for the said information somewhere in the year 2016 and till date the files pertains to reference No. PPDA/TIS/DEV/03/2833/04 dated 28/7/2004 and No. PPDA/TIS/DEV/169/146/04 dated 6/4/2004 has been reported by the public authority and the PIO as "not traced in the office". Such lapse has resulted in appellants approaching several authorities including this Commission. It is also seen from

the records that First appellate also did not dispose the first appeal despite of reminders by appellant. If First appellate authority would have heard the matter, the fact of non availability of files would have come to light and he being senior officer could have given appropriate directions to his subordinates.

12. If the correct and timely information was provided to the appellant, it would have saved his valuable time and hardship caused to him in pursuing the said appeal before different authorities. It is quite obvious that appellant has suffered lots of harassment and mental agony and torture in seeking information under RTI Act which is denied to him till date. If the public authority has preserved the records properly and if the PIO had taken prompt steps in providing the information, such an harassment and detriment could have been avoided. It appears that the public authority itself was not serious in preservation of records. If such an attitude of public authority if taken lightly would definitely frustrated the very objective of the RTI Act itself and further obstruct in bringing transparency in the affairs of the public authority .
13. The right of appellant has been violated due to non furnishing the information by Public authority. The appellant who is senior citizen herein have been made to run from Pillar to post in pursuing his RTI Application. He had sought the said information with specific purpose. The loss caused to him need not necessarily be calculated only in terms of money. He has vested his energy and valuable time in pursuing the said application. Public authority must introspect that non furnishing the information lands the citizen/information seeker before first appellate authority and also before this commission resulting into unnecessary harassment of a common man which is socially abhorring and legally impermissible, therefore some sought for compensation help in carrying the social grief, as such I am of the opinion that this is an fit case where request of the appellant for compensation appears to be genuine.

14. Considering the principals of general damage, I find this is an fit case for awarding, compensation to the Appellant which, notionally quantify as Rs. 5,000/- .
15. In the above circumstances, following order is passed:-

ORDER

- a) Public Authority concerned herein i.e. NGPDA, Mala, Panaji is hereby directed to pay Compensation of Rs. 5,000/- to appellant within three weeks from the date of receipt of the Order and thereafter to file compliance report to this Commission.
- b) The right of the appellant to seek same information from PIO free of cost is kept open after the said information is traced.

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/-