

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

CORAM: **Smt. Pratima K. Vernekar, State Information Commissioner.****Penalty Case No. 57/2017 In
Appeal No. 176/SCIC/2011**

Kum. Dr. Kalpana V. Kamat ,
C/o. Vasant M. Kamat,
1st floor, Caldeira Arcade,
Bhute Bhat, Mestawado,
Vasco Goa.

..... Appellant

V/s.

1. Public Information Officer (PIO),
Mormugao Municipal Council,
Vasco Goa.

2. First Appellate Authority (FAA)
Director of Municipal Administration .
Panaji Goa.

3. Public Authority Mormugao Municipal Council,
Through its Chief Officer,
Mormugao Municipal Council,
Vasco-Goa

.....Respondent

Decided on: 5/07/2018**ORDER**

1. This Commission vide order dated 1/12/2017 also directed to issue showcause notice to then Public Information Officer (PIO) Shri Meghanath Porob as contemplated under section 20(1) of the Right To Information Act, 2005 for not responding application within stipulated time and for delaying in furnishing the information. Vide said order also the Commission had directed to issue showcause notice to the Public Authority i.e. the Marmugao Municipal Council at Vasco-Da-Gama through its Chief Officer to showcase as to why it should not be order to Compensate the appellant as contemplated u/s 19(8)(a)(b) of RTI Act, 2005. In view of the said order the proceedings should be converted into penalty proceedings.

2. In pursuant to the showcause notice the appellant was present for initial hearings. Respondent No. 1 then PIO Shri Meghanath Porob appeared. On behalf of Respondent No. 2 Mormugao Muncipal Council Advocate V. Pednekar appeared.
3. Reply to showcause notice was filed by then PIO Shri Meghnath P. Porob on 23/03/2018. The copy of the same was furnished to the appellant. The Public Authority that is Mormugao Muncipal Council did not file any reply to showcause notice despite of giving ample opportunities.
4. The appellant as well as Respondents opted to remain absent since 27/04/2018 nor were represented by their Legal Counsel. As substantial time has lapsed and as both the parties did not show any interests in the proceedings, despite of awarding the opportunities this Commission had no any other option then to decide the matter based on the records available in the file.
5. The then PIO Shri Meghnath Porob vide reply dated 23/03/2018 admitted that he was officiating as PIO when the application was filed by the Appellant and when the order was passed by the FAA. Vide said reply he further admitted that he has responded to the application of appellant dated 25/04/2011 only on 7/07/2011 thereby requesting the appellant to attend the office to collect the documents as required by her after making necessary payments of Rs. 168/-. It was further submitted that delay in replying the appellant is mainly due to confusion in the date of application and the date of admission of application

by Respondent Authority and also due to oversight as the dealing staff had not kept the track on the time period. It was further contended that incompliance with the order of First Appellate Authority (FAA) vide letter dated 5/08/2011 the information was furnished to the appellant and though the certified copies of the documents enclosed appellant deliberately denied of having received the enclosures. It was further contended that he has taken all necessary steps to provide the information to the appellant based on the information/data available on record of Mormugao Municipal Council and that he had no malafide intention to delay or deny the information to the appellant. He also prayed for the lenient view to be taken up in the present proceedings. In support of his above contention he relied upon letters dated 7/07/2011 and 5/08/2011 addressed by him to the appellant.

6. Since no say came to be filed by Public Authority that is Marmagao Muncipal Council despite of Opportunities I presumed that they have got no say to be offered to the present penalty proceedings.
7. The reply filed by PIO is not convincing and satisfactory. The records shows that application dated 25/04/2011 bears the stamp and signature of Mormugao Municipal Council of having received the same on 25/04/2011 at 4 p.m. The contention of the Respondent PIO that due to the oversight the dealing staff have not kept track on the time period is also not supported by any affidavit of said dealing staff. For the above reasons I am not convinced with the reasons mentioned in the reply by the PIO.

8. Apparently the application of the appellant dated 25/04/2011 was not responded within 30 days time, there is delay appropriately of 1 and ½ month in responding the said application. However, as there is nothing on record brought by the appellant such lapses on the part of Meghnath P. Porob are not persistent a lenient view is taken and he has been directed to be vigilant henceforth while dealing with the RTI matters.
9. Further on perusing the records, it is seen that the information sought pertaining to the year 2010 and the same was sought by the appellant initially in the year 2011 which is subject matter of the present proceedings. From the perusal of the letter dated 7/07/2011 and 5/08/2011 addressed to appellant by then PIO Shri Meghnath Porob. it could be safely presumed that the information was then available in the records of the Public Authority in the year 2011. However, the present PIO have contended that the said information is not available now as per the Office records. The then PIO and present PIO replies are not in conformity with each other.
10. In this case it is only lapse and failure of authority to preserve the records which has lead to non traceability of the files and it also appears that authority itself was not serious of preservation of records. Such lapse has resulted in appellant approaching several authorities including this Commission. It is quite obvious that the appellant has suffered lots of harassment and mental agony and torture in seeking the information under RTI Act which is denied to her till date. It appears that public authority itself is not serious in preservation of records. Such an attitude of

Public Authority is taken lightly which definitely frustrate the very objective of RTI Act itself and further obstruct in bringing transparency in the affairs of Public Authority.

11. 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.

12. The Appellant herein have made to run from pillar to post in pursuing her RTI application. The said application was made some where in 2011 and she is pursuing the same till date and information till date is not furnished to her on ground of non-availability. The right of the appellant is violated due to non furnishing of the information by the Public Authority. The appellant since has not claimed that said information was sought by her in larger Public Interest, considering the principal of general damage, I find this is fit case for awarding compensation to the appellant which notionally quantify as Rs. 2000/-. In the given circumstances following order is passed:-

ORDER

- a) The Public Authority concern herein that is the Marmugao Muncipal Council at Vasco Goa is hereby directed to pay Compensation of Rs. 2000/- to appellant within 3 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 the same information from the PIO is kept open after the said information is traced.
- c) Admonition is hereby given to then PIO Shri Meghnath Porob to be vigilant henceforth and to strictly comply with the provisions of RTI Act, 2005 in its true spirit and any lapses found in future shall be viewed seriously.

With the above directions proceedings stands closed.

Proceedings 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

KA/-