

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

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.

Filed on: 30/07/2018
Decided on: 06/09/2018

ORDER

1. The brief facts leading to present appeal are that the appellant Mrs Lucy D'Mello by her application dated 27/02/2018 filed under section 6(1) of Right To Information Act, 2005 sought from Respondent PIO of the office of Village Panchayat, Calangute certain information/ certified copies of the documents as stated therein in the said application
2. According to the appellant her said application was not responded by the PIO nor the information was furnished to her as such considering the same as rejection, the appellant filed 1st appeal on 09/04/2018 before the Block development officer being the first appellate authority which was final disposed by order dated 14/05/2018. By this order, the First appellate Authority (FAA) directed Respondent PIO to furnish whatever information available and existing in the office records to the appellant within 10 days free of cost from the date of receipt of the order.

3. It is contention of the Appellant that inspite of the said order the said information was not furnished despite she visiting the office of PIO and hence she by an application dated 01/06/18 brought the said fact to the notice of First appellate authority .
4. It is the contention of the appellant that on receipt of his application dated 01/06/2018 , the first appellate authority vide memorandum dated 07/06/2018 once again directed the PIO to execute the orders passed by him but despite of such directions the PIO once again failed to furnish him requisite information .
5. In this back ground, the appellant has approached this commission on 30/07/2018 in the second appeal filed in terms of section 19 (3) of the RTI Act, seeking relief of direction to PIO to furnish the information as also seeking penal action for inaction on the part of PIO in complying with the provisions of the Act.
6. The matter was taken up on board and was listed for hearing. In pursuant to the notice of this commission the appellant was represented by Adv Gaurav Degvekar. Respondent PIO opted to remain absent despite of due service of notices twice.
7. Opportunities were granted to Respondent PIO to file his reply, despite of same PIO never bothered to appear and no reply was filed on behalf of PIO. Being so the submission on behalf of appellant were heard.
8. The Advocate for appellant in his submission submitted that appellant is knocking the doors of different authorities to get the said information. He further submitted that the said information was sought by him with a specific purpose in order to redress her grievance before appropriate forum. He further submitted that the information has not furnished to appellant

intentionally and deliberately. He further submitted that the PIO shown scant regards for this commission as he deliberately opted to remain absent. He further submitted that PIO also did not adhere to the directions given by the First appellate authority vide order dated 14/5/2018. He further submitted that lots of valuable time and energy has been lost in pursuing his application. And on above ground he prayed for directions to PIO for furnishing him the information on priority basis and also for invoking penal provisions.

9. As the respondent PIO did not filed any reply I presumed and hold that the averment made by the appellant in the memo of appeal are not disputed by him .
10. I have perused the records and consider submission on behalf of appellant. As per the records the application u/s 6(1) of the act was filed on 27/2/2018. U/s 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. There are no records produced by the PIO the same is adhered to. The contention of the appellant in the appeal is that the said application was not responded to at all by the PIO thus from the undisputed and unrebutted averment , the PIO has failed to respond appellant application nor has furnished the information.
11. The order dated 14/5/2018 of first appellate authority was not complied by the Respondent PIO. The order of first appellate authority reveals that the respondent did not appear before him despite of due service of notice and did not bothered to file reply. The same is also in the present case. PIO is duly served by this commission with the notice twice in the above appeal inspite of which the PIO has failed to appear and 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 intentional.

12. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act or has no respect to obey the order passed by the senior officer. Such a conduct of PIO is obstructing transferacy and accountability appears to be suspicious and adamant vis-a-vis the intend of the Act.
13. From the above gesture PIO I find that the entire conduct of PIO is not in consonance with the act. Such an lapse on part of PIO is punishable u/s 20(1) and 20(2) of the RTI Act. However before imposing penalty, I find it appropriate to seek explanation from the PIO as to why penalty should not been imposed on him for the contravention of section 7(1) of the act, for not compliance of order of first appellate authority and for delaying the information.
14. I therefore dispose the present appeal with order as under ;

Order

Appeal allowed

- a) The Respondent No. 1 PIO is directed to comply with the order passed by the First appellate authority dated 14/05/2018 and to provide the information to the appellant as sought by him vide his RTI Application dated 27/02/2018, within 20 days from the date of receipt of this order by him.
- b) Issue notice to respondent PIO to Showcause 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/her for contravention of section 7(1) ,for not complying the order of first appellate authority and for delay in furnishing the information.

- c) In case the PIO at the relevant time, to whom the present notice is issued, is transferred, the present PIO shall serve this notice along with the order to him and produce the acknowledgement before the commission on or before the next date fixed in the matter alongwith full name and present address of the then PIO.
- d) Respondent, PIO is hereby directed to remain present before this commission on 20/09/2018 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.

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