

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

Appeal No. 194/2018/SIC-I

Shri Siddesh Simepurushkar,
 r/o Flat No. 2, Ananta Apartment,
 Angod wada, Mapusa,
 Goa 403507

.....Appellant

V/s
 Public Information Officer,(PIO)
 Administrator of Comunidade,
 (North Zone), Mapusa,
 Bardez Goa.

.....Respondent

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

Filed on: 20/08/2018

Decided on:08/10/2018

ORDER

1. The brief facts leading to present appeal are that the appellant Siddesh Simepurushkar herein by his application dated 27/4/2018 filed under section 6(1) of Right to Information Act, 2005 sought certain information on 3 points from the Respondent No. 1 Public Information Officer (PIO), office of the Administrator of Comunidade, North Goa, at Mapusa, Bardez-Goa, pertaining to memorandum bearing No. ACNZ/Assagao-3/2017-18/100 dated 28/2/2018 issued by the office of Respondent PIO to the escricao of Comunidade of Assagao. The appellant also enclosed the said memorandum to the said application.
2. It is contention of the Appellant that the said application was not responded by Respondent PIO as such he preferred 1st appeal on 5/6/2018 before the Collector of North at Panajim being First appellate Authority (FAA).
3. The First appellate authority by an order, dated 30/7/2018, allowed the said appeal and directed PIO to furnish the information in his possession

as sought by him vide his application dated 27/4/2018 within 15 days, free of cost ,from the date of the order.

4. It is contention of the Appellant that the Respondent PIO did not comply the order of the First Appellate authority and did not furnish him information as such being aggrieved by the action of PIO , he is forced to approach this Commission by way of second appeal.
5. In this back ground the present appeal came to be filed before this commission on 20/8/2018 under section 19(3) of the RTI Act 2005 , there by seeking direction to PIO for furnishing him the said information and for invoking penal provisions.
6. Notice were issued to both the parties. In pursuant to which appellant was present. Respondent opted to remain absent despite of due service of notice and the Respondent PIO did not bother to file any reply to the appeal proceedings as such it is presumed that he has got no any say to be offered and the averments made by the appellant in the memo of appeal are not disputed and nor rebutted by him .
7. On account of continues absence of the Respondent, this commission had no other option then to hear the arguments of the appellant and then to decide the matter based on the available records in the file.
8. The appellant in his submission submitted that he is knocking the doors of different authorities to get the said information. He further submitted that the PIO has not furnished him the requisite information intentionally and deliberately as is trying to shield the irregular and illegal acts of the Administrative of Comunidade which he is trying to bring to light . He further submitted that the PIO has showed scanned regard for this commission and the FAA as he deliberately opted to remain absent. It was further submitted that till date the information which is sought by him is not still not furnished to him. He further submits that he wants the information on urgent basis as the same is required by him to approach the appropriate forum with his grievances and the Respondent is adopting such delay tactics in order to prevent him in approaching appropriate forum.

9. On perusal of the records it is observed that the application u/s 6(1) of the act was filed on 27/4/2018 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 too 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.
10. It is seen from the records that the memorandum dated 28/2/2018 was issued by the Administrator of Comunidade to the clerk /Escrivao of Comunidade of Assagao based on the objection raised by the appellant to the administrator of Comunidade in respect to the plot of land or approval in property bearing No. 145/1 and 145/1(e)(Partition plot).
11. Section 4 (1)(d) of the RTI Act requires that the public authority to provide reasons for his administrative or quashi Judicial decision to the effected person.
12. The Hon'ble Delhi High Court in writ petition (c)No. 5957/2007; Kusum Devi V/s Central Information Commission has held that;

"The petitioner certainly has right to ask for "Information" with regards to complaints made by him, action taken and the decision taken thereafter"
13. Since the complaint /application objecting grant of plots has been filed by the appellant herein he had every right to know the status of this complaint and proceedings conducted therein. As such by applying the above ratio I am of the opinion that the appellant herein is entitle for the information as sought by him vide his application dated 27/4/2018.
14. It is seen from the record that the order dated 30/7/2018 was not complied by the Respondent PIO. On perusing the order of the first appellate authority, it is seen that during non of the hearing the Respondent PIO did appeared before the First Appellate

authority neither filed any reply and the said observation have been made by the FAA in its order.

15. The said is the case in the above proceedings too , the PIO is duly served by this commission with the notice 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 not intentional. It appears that he is not interested in contesting the present proceedings.
16. 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.
17. From the above gesture of 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.
18. 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 30/7/2018 and to provide point wise the information to the appellant as sought by him vide his RTI Application dated 27/4/2018, within 20 days from the date of receipt of this order by him.

- b) Issue notice to respondent No. 1 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 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 26/10/2018 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him .
- e) Registry of this commission to open a separate penalty proceedings against he Respondent PIO.

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.