

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner
Second Appeal No. : 117/2018/SIC-I

Kishor P. Prabhudessai,
 Advocate and Notary, South Goa,
 Cusman Appts,
 Opp. Bus Stand,
 Quepem, Goa – 403 705

..... **Appellant**

V/s

- 1) Public Information Officer,
 Office of Mamlatdar,
 Ponda, Goa – 403 401.
- 2) First Appellate Authority,
 Office of Mamlatdar,
 Ponda, Goa – 403 401.

..... **Respondents**

And

Complaint No: 24/2018/SIC-I

Kishor P. Prabhudessai,
 Advocate and Notary, South Goa
 3 Cusman Appts,
 Opp. Bus Stand,
 Quepem, Goa – 403 705

..... **Complainant**

V/s

- 1) The Public Information Officer,
 Office of Mamlatdar,
 Ponda, Goa – 403 401.
- 2) The First Appellate Authority,
 Office of Mamlatdar,
 Ponda, Goa – 403 401.

..... **Respondents**

Appeal and Complaint Filed on: 10/05/2018
 Decided on : 20/06/2018

ORDER

1. As the facts are common in both the above proceedings and are arising out of the same application dated 5/01/2018 filed by the appellant /complainant, both the above proceeding are disposed by this common order.

2. The appellant /complainant by his application dated 5/01/2018 filed u/s 6(1) of Right to Information Act, 2005 sought information on mutation application/mutation cases allotted and the judgement passed by Smt. Apurva Karpe, Joint Mamlatdar III, Ponda-Goa from the date of her joining as Joint Mamlatdar III till 31/12/2017. The said information was sought from Respondent No. 1 Public Information Officer (PIO) of the Office of Mamlatdar of Ponda.
3. According to the appellant /complainant the said application was not replied by PIO within stipulated time of 30 days and that he received the vague and ambiguous reply, purportedly dated 29/01/18 by post on 7/02/2018
4. According to the appellant /complainant the information as sought was not furnished by said reply with malafide intention in order to deny the information and hence he filed first appeal with the Respondent No. 2, Mamlatdar of Ponda Goa on 2/03/2018. According to the appellant/Complainant since the Respondent No. 2 failed to dispose the said appeal, he is forced to approach this Commission.
5. In the above background the appellant being aggrieved by the action of both the respondents, has approached this commission in second appeal u/s 19(3) of the Act and has also filed the above complaint u/s 18 of the Act on 10/05/2018 with the contention that the information is still not provided and seeking order from this Commission to direct the Public Information Officer (PIO) to furnish the information as also other relief which are of penal in nature including compensation.
6. Notices were issued to the party, pursuant to which appellant was present in person. Respondent PIO Shri Abhir Hede appeared and filed his reply alongwith affidavit of Shri Yeshwant M. Gaonkar, the

extracts of outward registers and the letter dated 6/6/2018 by which he provided information to the appellant. The copy of the reply alongwith the enclosures were furnished to appellant/complainant.

7. Arguments were advanced by both the parties.
8. The appellant/complainant admitted of having received the information by speed post vide forwarding letter dated 6/06/2018 only after filing of this present appeal/complaint proceedings. He further submitted that he has no any further grievance with respect to information furnished to him. He further contended that the application filed by him was very clear and the records as were sought were existing in the office of the authority and as such it is his contention that the reply of then PIO dated 29/01/2018 is only given deliberately to misguide the appellant and to deny the information. It was further contended that though the reply is dated 29/01/2018 the same was posted after the stipulated period of 30 days and was received by him on 7/02/2018 and on the above grounds he prayed for invoking penal provisions as against PIO.
9. On the other hand PIO submitted that the appellant has filed the present appeal without exercising the remedy before the First appellate authority i.e. Deputy Collector /SDM-Ponda-Goa and that respondent No. 2 is wrongly assayed as FAA. It was further contended that the RTI application though it is dated 5/01/18 it is received by their office only on 8/01/18 and hence the reply dated 29/01/2018 which was posted on 2/02/2018 is well within stipulated time of 30 days. It was further contended that the appellant /complainant was also telephonically informed by the Headclerk Shri Yeshwant M. Gaonkar to be present for the purpose of inspection of files if necessary but the appellant/Complainant did not appeared to do so.

10. In the nutshell it is the case of PIO, that they have acted diligently without any malafides intentions
11. I have scrutinised the records available in the file so also considered the submission of both the parties.
12. Since the information is now furnished to the appellant to his satisfaction vide forwarding letter dated 6/06/2018, I find no intervention of this commission is required there too and hence prayer (a) becomes infructuous.
13. The reply filed by the Respondent PIO appears to be probable and convincing as the same is supported by documentary evidence more particularly the affidavit of Shri Yeshwant M. Gaonkar and the outward extract showing the date of posting.
14. On perusing the application dated 5/01/2018 purportedly filed u/s 6 of RTI Act which is relied by the appellant /complainant himself shows that it was inwards on 8/01/2018 in the office of Mamlatdar Ponda. The entries on extract of outward register shows that the reply dated 29/01/2018 purportedly given in terms of section 7 of RTI was outwards vide outward No. MAM/PON/RTI/239/2018/14 and the same was sent by speed post on 2/02/2018 by the office of Mamlatdar, Ponda. The said fact has also affirmed by the Headclerk Shri Yeshwant M. Gaonkar by way of affidavit. Thus I do not find any delay in responding the said application. As such I am of the opinion that facts of the present case doesnot warrants levy of penalty on the PIO. Consequently the relief sought by the appellant /complainant at (a) and (b) in the memo of complaint cannot be granted.

15. However, on perusing the reply dated 29/01/2018 purportedly given in terms of section 7 of RTI Act 2005 it is observed that the said reply is given in casual manner without proper application of mind. If the correct information was furnished to the appellant/complainant at the initial level itself the valuable time and the hardship caused to the appellant/complainant in pursuing the said application before the different authority could have been avoided. The PIO have also failed to specify the period within which an appeal against such rejection may be preferred and the particulars of the appellate authority as required to be specified in terms of section 7 (8)(ii)(iii) of RTI Act. Considering this as the first lapse, a lenient view is taken and the respondent PIO is hereby directed to comply with the provisions of RTI Act in true spirit
16. The relief of compensation of Rs. 50,000 as sought by the appellant in the appeal proceedings also cannot be granted as no sufficient and convincing documentary evidence placed on record by the appellant/complainant showing the loss or detriment suffered by him.
17. In the light of above discussion and in the facts of the case, I pass the following:-

Order

The appeal bearing No. 117/2018/SIC-I and the Complaint bearing No. 24/2018/SIC-I stands dismissed.

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

Kk/-