

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

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**Appeal No. 287/2018/SIC-I**

Shri Norman Dias,  
R/o H.No. 86/A, Igreja ward  
P.O. Carmona, Salcete Goa.

.....Appellant

V/s

1) The Public Information Officer,  
Office of Mamlatdar of Salcete,  
Collectorate of South Goa,  
Margao Goa.403601

2) First Appellate Authority,  
Deputy Collector Cum SDO, Salcete,  
Collectorate of South Goa,  
Margao Goa.

.....Respondents

**CORAM:**

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Filed on: 28/11/2018**

**Decided on: 08/01/2019**

**ORDER**

1. The brief facts leading to the second appeal are that the appellant Shri Norman Dias vide his application dated 04/07/2018 had sought for information on 2 points pertaining to survey mutation entry No. 54814 and entry No. 56333 relating to survey No. 173/8, Village Nuvem, Taluka Salcete as stated therein in the said application from the Respondent no 1. PIO of the office of Mamlatdar South Goa at Margao-Goa. The said information was sought by the appellant in exercise of his right u/s 6(1) of RTI Act, 2005.
2. It is the contention of the appellant that his above application filed in terms of sub section 1 of section 6 was not responded by the respondent no 1 PIO within stipulated time of 30 days and as such deeming the same as rejection, the appellant filed 1<sup>st</sup> appeal to

Respondent no 2 first appellate authority on 5/9/2018 u/s 19(1) of RTI Act.

3. It is the contention of the appellant that the respondent no. 2 first appellate authority vide order dated 9/10/2018 allowed his appeal and directed the Respondent no 1 PIO to issue the information to the appellant, free of cost as sought by him vide application dated 4/7/2018 within 10 days from the date of the order.
4. It is the contention of the appellant that inspite of the said order of first appellate authority, the said information was not furnished to him by Respondent No. 1 PIO as such being aggrieved by the said action of PIO, the appellant has approached this commission in his 2<sup>nd</sup> appeal as contemplated u/s 19(3) of RTI Act.
5. In the second appeal the appellant had sought for direction as against Respondent no. 1 PIO for furnishing required information as sought by him vide application dated 4/7/2018 and for invoking penal provisions .
6. Notices were issued to both the parties. Appellant appeared in person. Respondent PIO was represented by Sharad Naik who placed on record the reply of PIO on 8/1/2019 thereby enclosing the information on all points alongwith the documents. Respondent no. 2 First appellate authority opted remain absent. The copy of the reply filed by Respondent PIO alongwith the documents was furnished to appellant.
7. The appellant on verification of the information submitted that he is satisfied with the information furnished to him during the present proceedings however he vehemently pressed for invoking penal provision on the ground that lots of his valuable time and hardship caused to him in pursuing the said application.
8. I have considered the submission made on behalf of both the parties and also the records available in the file.

9. It is seen that as per the records the RTI application was filed by the appellant on 4/7/2018 which was received by the office of respondent no 1 on 4/7/2018 vide inward entry No. 21611. 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 that the same is adhered too. The order of the first appellate authority had directed PIO to issue the information within 10 days. As such the PIO was duty bound to comply the direction of his superior officer and was required to provide the information within 10 days. It is seen that the order was passed on 9/10/2018 as such the PIO was required to furnish the information on or before 19/10/2018. There is nothing on record produced by the PIO that the order of the FAA was complied by him within time. The information came to be provided to the appellant only on 8/1/2019 that too during the present appeal proceedings. Such a conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant visa viz the intent of the act.
10. Considering the conduct of PIO and his indifferent approach to the entire issue, I find prima facie some substance in the argument of the appellant that the PIO purposely and malafidely refused access to the information. Such allegation if proved would call for disciplinary proceedings and imposition of penalty against PIO. However before imposing penalty I find appropriate to seek explanation from the PIO as to why penalty should be imposed on him/her for contravention of section 7(1) of the Act, for not compliance of order of FAA and for delaying the information.
11. I therefore dispose the present appeal with order as under:

### **ORDER**

1. Appeal partly allowed.
2. Since information being provided during the present proceedings, I find no intervention of this commission is required for the purposed of furnishing information.

3. Issue showcause notice to respondent PIO to showcause as to why no action has 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) of RTI act, for not complying the order passed by the FAA within time and for delaying furnishing the information.
4. In case the PIO at the relevant time, to whom the present notice is transferred, the present PIO shall serve this notice alongwith the order to him and produce the acknowledgment before this commission on or before the next date fixed in the matter alongwith full name and present address of the then PIO.
5. The respondent PIO is hereby directed to remain present before this commission on 28/1/2019 at 10.30am alongwith written submissions showing cause why penalty should be imposed on him.
6. Appeal proceedings disposed and closed accordingly. The registry of this commission is directed to open separate penalty proceedings.

Notify the parties.

Pronounced in the open court.

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.

Sd/-  
**(Ms.Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa