

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

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**Appeal No.103/2019/SIC-I**

Smt. Vasudha Sawaikar.  
Shriniwas , near LIC Building ,  
Khadpabandh-PondaGoa.

.....Appellant

V/s

1)Public Information Officer,  
The Goa Buildings and others  
Constructions Workers Welfare Board, Shram Shakti Bhavan,  
Patto Plaza, Panaji-Goa

2)First Appellate Authority,  
Commissioner, Labour & Employment.  
2<sup>nd</sup> floor, Shram Shakti Bhavan,  
Patto Plaza PanajimGoa. .

.....Respondents

**CORAM:** Ms. Pratima K. Vernekar, State Information Commissioner.

Filed on: 22/04/2019

Decided on:07/06/2019

**ORDER**

1. The second appeal came to be filed by the Appellant Smt. Vasudha Sawaikar on 22/4/2019 against the Respondent No. 1 Public Information Officer (PIO),of the Goa Building and other Construction Workers Welfare Board at Panajim and against Respondent No. 2 First Appellant Authority (FAA), under sub section (3) of section 19 of RTI Act.
2. The brief facts leading to the second appeal are that the appellant vide her application dated 2/11/2018 had sought for the certain information from the Respondent No. 1 PIO of Office of Goa Building and other Construction Workers Welfare Board at Panajim on 6 points as listed therein in exercise of her right under 6 (1) of RTI Act, 2005. The information/documents sought by the appellant herein were pertaining from the period from April 2013 till October 2018 .
3. It is the contention of appellant that she did not received a reply from the Respondent No. 1 PIO in terms of sub section (1) of

section 7 of RTI Act, 2005, as such deeming the same as rejection she preferred the first appeal on 17/12/2018 before the commissioner Labour and employment , Panaji-Goa being a First Appellate Authority who is the Respondent No. 2 herein.

4. It is the contention of the appellant that she received the letter from the Respondent NO. 1 PIO on 11/1/2019 after she filed first appeal thereby informing her that he received her RTI application only on 9/1/2019 and vide said letter he requested the appellant to visit their office as earlier to collect the information available.
5. It is the contention of the appellant that respondent no 1 PIO finished her the information at point no.1 to 4 and the information at point no. 5 and 6 were not provided to her on the ground that the same have not been submitted by the Administrative officer of the Board.
6. It was further contended by the appellant that the PIO has not produced all the original copies of the file pertaining to information 5 and 6 to the appellant for inspection as was directed by Respondent no. 2 First appellate authority. She further contended that she was informed that the respondent No. 2 first appellate authority has directed Administrative officer not to submit the original file to PIO.
7. It is the contention of the appellant that the First appellate authority on 25/1/2019 disposed her first appeal by coming to the conclusion due information has been furnished and further directions were also given to PIO to provide inspection of documents at point no 5 and 6 she further contended that in pursuant to the directions the inspection was granted to her .
8. It is the contention of the appellant that she was shocked that the copies of the documents which provided by Administrative

officer Mr. Pokle was completely misleading and false , It is the contention that the information which was furnished to her on 25/1/2019 was not the same which was inspected by the appellant at point no 5 and 6 .

9. She further contended that she submitted letter to respondent no. 2 FAA on 25/1/2019 it self submitting her grievances and demanding the copies of the file identified by her during the inspection but the FAA refused to act by saying that the appeal has been disposed
10. In this background, the appellant has approached this commission on 22/4/2019 as contemplated under section 19(3) of RTI Act, 2005 with a contention that information i.e the copy of full file bearing No.(a)CLE/GBOCWWB/EST/55/2018 –w.r.t. engaging of consultant and (b) file bearing NO. CLE/GBOCWWB/EST/58/2018 is still not provided and seeking relief for direction to PIO for providing her the above information, for invoking disciplinary proceedings against the delinquent officer and for imposing penalty on Respondent No.2 First appellate authority for providing incorrect or misleading information during the course of first appeal .
11. The matter was taken up on board and was listed for hearing after intimating both the parties. In pursuant to notice of this commission, appellant appeared in person. Respondent PIO Shri Pacheco Fernandes was present. Respondent No. 2 first appellate authority was represented by Shri Prakash Marathe
12. Reply was filed by Respondent No. 1 PIO on 29/5/2019 with the registry of this commission which was inwards vide no. 897. Reply came to be filed by Respondent No. 2 First appellate authority on 7/6/2019. The copies of both the replies were furnished to the appellant.

13. Vide reply the PIO submitted that though the application of the appellant was received and entered inward register by office of the Commissioner Labour on 2/11/2018, the same was submitted after 13 days i.e on 15/11/2018 to the Goa Building and other Construction Workers Welfare Board which was then marked to APIO on 10/12/2018 (after 25 days )and not to him . It was further contended that APIO had made oral request to Shri Atmaram Pokle, Administrative officer on 12/12/2018 for information at serial No. 5 and 6, as it pertains to Administrative section who flatly refused to give information to APIO and such an fact was brought to the notice of the commissioner of Labour and Employment who is the Secretary of Goa Building and other Construction Workers Welfare Board.
14. It was further contended by the PIO that he had issued office memorandum to all the staff, seeking the information at question 5 and 6 and Shri Atmaram Pokle, Administrative officer submitted irrelevant photocopies of the information to point no. 5 and 6 . He further contended that said Atmaran Pokle refused to submit original documents on the ground that First appellate authority has directed him not to submit the original file to PIO.
15. It was further submitted that on receipt of the notice from this Commission,he once again on 17/5/2019 issued office memorandum to Shri Atmaram Pokle, Administrative officer and to Pratija Desai, LDC calling for the information at point no. 5 and 6 and the original files bearing No. (a) CLE/GBOCWWB/EST/55/2018 –w.r,t, engaging of consultant. And (b) file bearing NO. CLE/GBOCWWB/EST/58/2018.
16. It is the contention of the Respondent PIO that he has been always transferent and continued to be transferred and his dissent notes conveyed are the testimony of the truth .
17. In the nutshell it is the case of the PIO that he was not given accessed to original documents as such he was helpless and at

the mercy of the other officer who was holding the information and such officer acts the barrier in smooth implementation of the Act. In support of his contention he has relied upon the Xerox copies of such notings.

18. Vide reply of Respondent no. 2 First appellate authority contended that during the first appeal the PIO was directed to submit the specific reply to the appeal memo so also to submit the copies of the entire information sought by the appellant to him for onwards submission to the appellant and accordingly a voluminous information was furnished to the appellant on 11/1/2019 but also made the appellant to verify the said information as requested by her at question No. 1 to 4 . It was also contended that he had issued the direction during the course of hearing on 11/1/2019 and that additional information at point No. 5 and 6 and pages 206 were furnished to the appellant on 25/1/2019. It was further contended that he ensured that the inspection was allowed to the appellant of the two files in original in the presence of PIO and Administrator officer. It was further contended that the Administrator officer had never been informed or directed by him not to divulged the information. And that the roznama notings made by the PIO is totally false and unwarranted. It was further contended that the PIO has neglected the original application itself and cannot take recourse for his failure by making such loose and casual statements. It was further contended if the appellant had found upon inspection some other documents the same could have been immediately asked under separate application before PIO. It was further contended that upon disposal of the appeal the jurisdiction of the First appellate authority ceases and becomes functus –Officio. It was contended that the appellant has grudge against First appellate authority which might prompted her to make unwarranted allegations against First appellate authority.

19. The Administrative officer Shri Atmaram Pokle appeared on 6/6/2019 before this commission and submitted that the remaining information i.e the copies of full filing bearing No.(a) No.CLE/ GBOCWVB/EST/55/2018 –w.r.t. engaging of consultant. And (b) file bearing No.CLE/GBOCWVB/EST/58/2018 shall be handed over to respondent PIO for onward submission of the information to the appellant.
20. Accordingly the above information came to be submitted to the appellant on 7/6/2019. The appellant acknowledged the said information which was furnished to her, free of cost and after going through the information and verifying the original files submitted that she has no any further grievance with respect to information furnished to her as the same is furnished as per her requirements and accordingly endorsed her say on the memo of appeal.
21. Since available information have been now furnished to the appellant, free of cost as per the requirements of the appellant, I find no intervention of this commission is required for the purpose of furnishing information and hence prayer (I) becomes infructuous.
22. The appellant during the course of the hearing reiterated the ground raised by her in memo of appeal and vehemently pressed for invoking penal provisions against the officer whose assistance was sought by the PIO u/s 5(4)of RTI Act who without reasonable cause failed to provide her information within prescribed time limit and in support of her contention she relied upon the judgment of Central information Commissioner in appeal No. CIS/SG/A/2010/002810.
23. The appellant though have made allegations against Shri Atmaram Pokle for obstructing access to full and complete information to her, however he has not been arrayed as one of the party to the present proceedings by the appellant. Though

PIO has also made allegations against Shri Atmaram Pokle and the same are reflected in the reply filed before this commission also in the notings, however there is no documentary evidence on record produced by the PIO of he seeking assistance of Shri Atmaram Pokle. Nor any affidavit of APIO was filed on record in support of his contention. In absence of any convincing and cogent evidence it would not be appropriate on the part of this commission for arriving at any conclusion.

24. The appellant herein at prayer (III) has sought for imposing heavy penalty on Respondent no. 2 First appellate authority. The same does not warrant in the facts and circumstances of the present case as the records produced by the Appellant itself shows that the appropriate order was passed by the Respondent no. 2 first appellate authority on 25/1/2019 and he also ensured that the information was furnished during the pendency of first appeal itself.

Be that as it may, as per the provisions of the RTI Act, only the PIO can be penalized u/s 20 of the RTI Act. I do not find any provisions under the act conferring powers to commission to impose penalty to the First Appellate authority. Hence the relief as sought by the appellant in the present proceedings against Respondent No.2 first appellate authority also cannot be granted.

25. Before parting the Commission hereby observes that the application was filed by the appellant on 2/11/2018 . The part of the information was furnished on 25/1/2019 and the remaining information came to be furnished on 7/6/2029. If the correct and timely information was provided to the appellant, it would have saved valuable time and hardship caused to the appellant herein in pursuing the appeal before the different authorities. It is quit obvious that the appellant has suffered lots of harassment and mental touchier in seeking the information under the RTI Act. If prompt and correct information was provided at the initial stage

itself, such harassment and detriment could have been avoided.

26. The Head of the Office of the public authority concerned herein is hereby directed to ensure that proper assistance is given to the PIO by the concerned officer holding the information and whose assistance has been sought by the PIO and any lapses if found on the part of such officer who acts as a barrier in smooth implementation of the Act, should be viewed seriously and should be dealt sternly

27. With the above directions the appeal proceedings stands closed.

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.

Pronounced in the open court.

Sd/-

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