

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

Appeal No.158/2019/SIC-I

Shri Jawaharlal T. Shetye
H.N. 35/A, Ward No, 11,
Near Sateri Temple, Khorlim,
Mapusa-Goa -403 507

....Appellant

V/s

1) The Public Information Officer,
The Main Engineer –Gr. I, Diniz De Melo,
Mapusa Muncipal Council,
Mapusa-Goa – 403507.

2) First Appellate Authority,
Chief Officer, (Clen Madeira)
Mapusa Municipal Council,
Mapusa-Goa 403507

.....Respondents

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

Filed on: 29/05/2019

Decided on:-24/09/2019

ORDER

1. The brief facts leading to second appeal are as under:-

a) The second appeal bearing no. 74/2019/Sic-I was filed by the appellant Shri. Jawaharlal T. Shetye on 22/03/2019 in respect to his RTI application dated 17/12/2018. The Commission after hearing both the parties vide order dated 8/04/2019 remanded the matter back to the Respondent No. 2 First Appellate Authority (FAA) and directed Respondent No. 2 FAA to hear a fresh the first appeal filed by the appellant on 21/01/2019 and to decide the same within 30 days in accordance with law.

b) In compliance with the said order dated 8/04/2019 given in appeal No. 74/2019/SIC-I, the Respondent No. 2, First appellate authority (FAA) heard the matter and passed an order on 26/04/2019 thereby directing the Respondent Public Information Officer (PIO) to furnish the information to the appellant within 20 days, free of cost.

c) In pursuant to the said order dated 26/04/2019 of Respondent No. 2, First appellate Authority, the Respondent No. 1 vide his letter dated 24/05/2019 furnished the information to the appellant which according to the appellant was incomplete/misleading and hence he approached this

Commission by the present second appeal on 29/05/2019 in terms of section 19(3) of Right To Information Act, 2005 seeking direction to Respondent Public Information Officer (PIO) to furnish the correct and complete information to his queries at point no. 2 to 9 of his RTI application dated 17/12/2018 and also for invoking penal provisions as against the PIO Mr. Diniz De Melo .

2. In pursuant to the notice of this Commission appellant was present only on two hearing that is on 20/8/2019 and on 26/08/2019. The Respondent PIO Shri Diniz De Melo was present alongwith the APIO Shri. Vinay Agarwadekar. Respondent No. 2 FAA opted to remain absent.
3. Affidavit was filed by Respondent PIO Shri. Diniz C. T. De Melo on 20/08/2019 alongwith the enclosures. The copy of the same was furnished to the appellant herein.
4. Since the appellant was not satisfied with the information earlier furnished to him the Respondent No. 1, Public Information Officer (PIO) volunteered to give him the inspection of the records and to provide him clarification/additional information as available on the records of the public authority.
5. An additional reply was filed by the PIO on 17/09/2019 alongwith the enclosures. The copy of the same could not be furnished to the appellant on account of his absence.
6. The Respondent No. 1 PIO contended that he has furnished all the information to the appellant free of cost vide letter dated 24/05/2019 and also additional information at point no. 2, 3, 5 is also provided by him to the appellant on 26/08/2019 and the appellant have made endorsement to the effect. The Respondent PIO pointed out the signature of the appellant at point no. 2, 3 and 5 of having received the said information. He further submitted that the information sought at point no. 6, 7, 8 and 9 are not maintained in their office and is not available in their office records. He further submitted that the available information have been provided to the appellant and the appellant was permitted to verify the records.
7. The opportunity was granted to the appellant by this Commission to verify the information and report accordingly. Since the appellant has not approached this Commission with his any grievances in respect to

the information furnished to him on 26/08/2019, I presumed and hold that the same is furnished now to the satisfaction of the appellant and hence I find that no further intervention of this Commission is required for the purpose of furnishing information and that prayer (ii) becomes infructuous.

8. The appellant had also sought for invoking penal provisions against Respondent PIO Shri. Diniz De Melo on the ground that vague and incomplete information was provided to him and also on the ground of delay in complying the order of FAA. Vide memo of appeal the appellant has contended that in pursuant to the order of the FAA the Respondent PIO was duty bound to furnish the information on or before 17/05/2019. However, the information came to be furnished to him vide letter dated 24/05/2019 and hence there is delay of 7 days.
9. The Respondent PIO in his affidavit dated 20/08/2019 have submitted that Shri. Venkatesh Sawant was officiating as PIO during the tenure of above RTI application and subsequently he was appointed as PIO. He further submitted that in pursuant to the order of the FAA dated 26/04/2019 he furnished the pointwise information to the appellant.
10. On going through the records it is seen that the voluminous information was sought pertaining to various subject and the various sections of the public authority. The FAA in his order has also observed that the information sought needs time to compile. Hence according to me the delay of 7 days in complying the order of FAA is a marginal delay. During the present proceedings also the Respondent PIO Shri. Diniz De Melo have shown his bonafides by offering him inspection and providing him the additional information on 26/08/2019 pertaining to the points 2, 3, and 5.
11. There is no convincing, cogent and sufficient evidence on record attributing malafides on the part of the Respondent No. 1, PIO Shri. Diniz De Melo, hence by subscribing to the ratio laid down by the Hon'ble High Court of Bombay at Goa in writ petition No. 205/2007 in case of Shri. A. A. Parulekar v/s Goa State Information Commission and others, I find that the facts and circumstances of the present case doesn't warrants levy of penalty on the PIO Shri. Diniz De Melo.

12. As there is no sufficient evidence on record produced by the appellant about the detriment or loss suffered by him, I am also declined to grant the relief (v) which is nature of compensation to the appellant.
13. The appeal disposed accordingly proceeding 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.

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