

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

Appeal No. : 212/2019/SIC-I/

Mr. Surendra S. Govekar,
R/o. H. NO. 678/5, Soratto Waddo,
Anjuna, Bardez-Goa Appellant

v/s

1.Public Information Officer (PIO),
The Secretary,
Village Panchayat Anjuna-Caisua,
Bardez-Goa

2.First Appellate Authority (FAA),
Block Development Officer, Bardez,
Mapusa, Bardez-Goa

....Respondents

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

Filed on: 8/07/2019
Decided on: 11/12/2019

ORDER

1. The brief facts leading to second Appeal filed by the Appellant, Shri. Surendra Govekar against Public Information Officer (PIO) of the Village Panchayat, of Anjuna –Caisua, Bardez- Goa and against Respondent No. 3 First Appellate Authority (FAA) interms of section 19(3) of Right To Information Act, 2005 are as under:-

a) Appellant vide his application dated 4/01/2019 sought certain information on 26 points including inspection of records as listed therein in the said application from the Respondent No. 1 Public Information Officer (PIO) in respect of the development work taken in Panchayat jurisdiction by Anjuna-Caisua-Panchyat through Panchayat fund from the period 8/07/2017 to 4/01/2019.

b) It is contention of the appellant that he was served on 8/02/2019 by Registered A. D., the reply of Respondent No. 1 dated 31/01/2019 bearing reference No. VP/ANJ-CAI/2018-19/3864 and in pursuant to same he carried out inspection and

identified the desired information of all the files and informed Public Information Officer (PIO) to issue certified copies of entire files, despite of the same Respondent No. 1 Public Information Officer (PIO) malafidely refused to furnish the information.

- c) It is contention of the Appellant that he being aggrieved by the denial of information, preferred First Appeal before the Block Development Officer (BDO), at Mapusa , Bardez-Goa on 5/03/2019 in terms of section 19(1) of RTI Act, 2005.
- d) It is further contention of the appellant that subsequently after filing the said Appeal, he received the letter on 8/03/2019 from Respondent No. 1 PIO bearing reference No. VP/ANJ-CAI/2018-19/4226 dated 1/03/2019 by Registered Post where in the Respondent No. 1 PIO showed his willingness to provide desired information to the Appellant after 7 days from depositing the charges/ fees of Rs.3864/- and in pursuant to the said letter, he deposited the charges on 13/03/2019 and cash receipt bearing No. 088 bearing receipt book No. 1332 duly signed by the Respondent No. 1 was issued to him.
- e) It was further contended that subsequently after depositing an amount of Rs. 3864/-, on the same day in the evening section at around 3.17 p.m., he received the call on his mobile No. 9822127474 from Panchayat Peon Shri. Atchut Walavlekar informing him to come urgently in the Panchayat Office alongwith payment cash receipt dated 13/03/2019. Accordingly he presented himself alongwith cash receipt before the Respondent No. 1 and the Respondent No. 1 PIO asked him to handover the said cash receipt and after receiving the said cash receipt, the respondent forcefully refunded cash of Rs. 3864 /- which he has accepted under protest.

- f) It is contention of the Appellant that Respondent No. 2 First Appellate Authority (FAA) after hearing both the parties passed an order dated 6/05/2019 directing the Respondent No. 1 to furnish the information as identified by the Appellant during the inspection of records within period of 10 days from the date of receipt of the order, upon payment of fees as intimated by the Respondent No. 1 vide letter dated 01/03/2019 .
- g) It is contention of the Appellant that Respondent No. 1 failed to give due consideration to the order passed by the Respondent No. 2 and failed to call for the said information from his subordinate or superior to furnish the same to the Appellant as per the order within 10 days.
2. In this background being aggrieved by the action of Respondent No. 1, PIO, the Appellant has approached this Commission on the grounds raised in the memo of the appeal there by contending that information as sought by him is still not provided and seeking direction from this Commission to Respondent, PIO for providing him inspection of the documents/records in line with his application dated 4/01/2019 and the certified copies of the documents. He sought also for invoking penal provisions under section 20 (1) and (2) of RTI Act, 2005 and also for compensation.
3. Matter was listed on the board and taken up for hearing in pursuant to which Appellant appeared in person. Respondent No. 1 was represented by Advocate S. Sangale and by Advocate Kapil Kerkar. Respondent No. 2 was initially represented by Keshav Fadte and by Umesh Sawant.
4. Reply was filed by Respondent No. 2, First Appellate Authority (FAA) on 26/08/2019 there by enclosing copy of the order. Reply was also filed by Respondent No. 1 Public Information Officer (PIO) on 25/09/2019 resisting the appeal.

5. During the proceeding before this Commission the Respondent PIO showed his willingness to provide the required information to the Appellant and the same was collected by the Appellant after depositing the amount. The appellant after verifying the information submitted that he has no further grievance with respect to information furnished to him by PIO before this Commission.
6. Arguments of Appellant heard. Advocate for Respondent submitted to consider his reply and memo filed in Appeal 232/2019 as his arguments.
7. The Appellant submitted that after inspection of the files, PIO was informed by the Appellant to issue certified copies of the entire files and also remark to that effect was put by the Appellant on the acknowledgment letter of the Panchayat Office (i.e on letter dated 31/01/2019). It was further contended that inspite of identifying the relevant information, the Respondent No. 1 malafidely refused to furnish the information despite of he depositing an amount of Rs. 3864/- (Rupees Three Thousand Eight Hundread Sixty Four Only) towards Xeroxing charges. It was further contended that the Respondent forcefully refunded cash of Rs. 3864/- back to the Appellant and even despite of the directions of Respondent No. 2 the Respondent PIO failed to furnish him the information. The Appellant further contended that he had sought the said information in the larger public interest which was denied to him malafidely till he approached this Commission in the present second appeal. He further submitted that lots of hardship has been caused to him in pursuing his RTI application and his valuable time has been lost in entire process and on that ground he vehemently pressed for invoking penal provision.

8. Vide reply dated 25/09/2019 the PIO denied the averments made by the appellant and contended that Appellant failed to inform the Panchayat as to the desired information. It was further contended that the Respondent PIO was unable to give the said information being vague, general and not specific so also voluminous which would disproportionately divert the resources of the Panchayat. The Respondent further contended that the appellant is not entitle for multiple information in one application filed under the RTI Act, 2005 and information sought by the appellant does not come under the ambit of section 2(f).
9. I have scrutinise the records available in the file so also considered the submission of both the parties.
10. Since inspection of records files register etc. and the information requested by the appellant in his application dated 4/01/2019 is already furnished before this Commission, I find that no further intervention of this Commission is required for the purpose of furnishing information and the prayer (i) and (ii) becomes infructuous.
11. On perusing the record, it is seen that the application was filed by the Appellant on 4/1/2019. Though it was responded well within stipulated time on 31/01/2019, the complete information only came to be provided to the appellant somewhere in November, 2019 before this Commission. The receipt No. 088 receipt book No. 1332 shows that the amount of Rs. 3864/- was deposited by the appellant herein. The said receipt is issued under the signature of Secretary. The Respondent PIO is silent in his reply the reasons for refunding the said amount and for not furnishing the said information before the First Appellate Authority (FAA). The order of FAA also reveals that the said information is existing in the office of the PIO and the appellant is eager to collect the same after paying the prescribed fee under the RTI Act 2005. The said order was passed on 6/05/2019. There is

apparently delay in furnishing information which was available and existing in the records of public authority concerned herein.

12. The contention of the Appellant that the information sought by the appellant does not come under ambit of section 2(f) does not hold good. Respondent PIO at one point of time submits that the information sought does not come under the ambit of section 2(f) of the RTI Act, 2005. However, the FAA comes to the conclusion that the said information exists in the office records.
13. Further from the reply dated 31/01/2019 of the Respondent PIO given in terms of section 7(1) of RTI Act, it is seen that vide said reply the Appellant was directed to inspect the required information in the Office of the Village Panchayat during any working days as per point No. 25 of his application. The Respondent PIO in the said reply has not answered or furnished the information as sought by him at point No. 1 to 24. So also the inspection as sought by him at point No. 26 was also not offered and given to him. Hence, prima-facia I find that incomplete information was given to the appellant vide reply dated 31/01/2019. All this above circumstances leads me to find force in the arguments of the appellant that PIO malafidely with deliberate intention denied him information.
14. The PIO also failed to show vis-a-vis any supporting documents as to how and why the delay in not furnishing complete information was not deliberate and was not intentional.
15. The PIO must introspect the non furnishing of the correct and complete information lands the citizen before the FAA and also before this Commission resulting into unnecessary harassment of the Common man which is socially abhorring and legally impermissible.
16. From the above gesture 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 and for delay in furnishing the complete information.

17. I therefore dispose the present appeal with order as under ;

Order

Appeal partly allowed.

- a) Since the available information is now been furnished as sought by the appellant vide his application dated 4/01/2019, no further intervention of this Commission is required for the purpose of furnishing the same.
- b) Issue notice to respondent 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/her for contravention of section 7(1) and for delay in furnishing the complete 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 02/01/2020 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- e) Registry of this Commission to open a separate penalty proceedings against the 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