

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

Appeal No. : 249/2019/SIC-I/

Mrs. Santana Nazareth,
H. No. 4/111-H, Mollem Bhat,
Saligao, Bardez-Goa

.....Appellant

V/s

1. Public Information Officer (PIO),
Village Panchayat Saligao,
Bardez-Goa
2. First Appellate Authority,
Block Development Officer,
Mapusa, Bardez-Goa

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 16/08/2019

Decided on: 27/09/2019

ORDER

1. The second appeal came to be filed by appellant Mrs. Santana Nazareth against Respondent No.1 Public Information Officer (PIO) of the Office of Village Panchayat, Saligao , Bardez-Goa and against Respondent No.2 First Appellate Authority (FAA) Under sub-section (3) of section 19 of the Right To Information Act, 2005.
2. The brief facts leading to the present appeal are as under:-
 - (a) In exercise of right under section 6(1) of RTI Act, 2005 the Appellant filed application on 17/06/2019 seeking certain information from the Respondent No.1 Public Information Officer (PIO) on several points as listed therein at points (1) to (9) in the said application mainly pertaining to her applications /letters made to the said Panchayat. Vide said RTI application, the appellant sought for the information

about the action taken on her various letters as mentioned by her in the said application.

- (b) According to the appellant her said application was not responded by the Respondent PIO herein nor the information furnished to her within stipulated time of 30 days as contemplated under section 7(1) of the RTI Act, 2005, as such considering the same as rejection, the appellant filed first appeal on 19/07/2019 before the Respondent No. 2, Block Development Officer of Mapusa, being First Appellate Authority interms section 19(1) of RTI Act, 2005. The said first appeal was registered as BDO-I-BAR/RTI/48 of 2019.
- (c) The Respondent No. 2 FAA disposed the said appeal by an order dated 7/08/2019. By this order the Respondent No. 2, First appellate authority (FAA) allowed the said appeal and directed Respondent PIO to furnish information to the appellant within the period of 7 days, free of cost from the date of the order.
- (d) It is contention of the appellant that Respondent PIO did not comply the order of Respondent No. 2, FAA and also did not furnish her the information as such she being aggrieved by the action of PIO, is forced to approach this Commission by way of 2nd appeal.
3. In this background the appellant has approached this Commission on 16/08/2019 in this second appeal with the contention that the information is still not provided and seeking order from this Commission to direct the PIO to take steps as may be necessary to secure compliance of the order passed by the Respondent No. 2 FAA as also for invoking penal provisions for inaction on the part of PIO in

complying with the provisions of the act and also for compensation for delay in providing information sought.

4. The Matter was taken up on board and was listed for hearing after intimating both the parties. In pursuant to the notice of this Commission, appellant appeared in person. Respondent PIO Shri. Clifton Azavedo was present.
5. During the hearing on 24/09/2019 the information alongwith the documents/ enclosures were furnished to the appellant vide letter dated 21/01/2019. After verifying the said information acknowledge the same on the memo of appeal.
6. The appellant submitted that she has filed various application/ representation to the Village Panchayat of Saligao, Bardez-Goa from the years 2017 till 2019 and no action was taken by the said Panchayat. She further submitted that the inspection as informed to her at point no. 6 is fixed only on 23/10/2019 at 3 oclock only after she approaching Deputy Director of Panchayat and since the Deputy Director of Panchayat has issued directions to BDO to initiate appropriate action on her representation, the said inspection is fixed on the above date.
7. It was further submitted by appellant that the PIO have not furnished her the requisite information intentionally and deliberately as he is trying to shield the irregular and illegal acts of the said Panchayat which she is trying to bring to light. It was further contended that the PIO did not adhered to the direction given by the FAA vide order dated 7/08/2019.
8. She further submitted that she is knocking the doors of different authorities to get the said information which was sought by her with

specific purpose in order to redressed her grievances before appropriate forum

9. It was further submitted that lots of valuable time and energy have been lost in pursuing the application and on the above grounds she prayed for invoking penal provisions against Respondent PIO.
10. The Respondent PIO submitted that whatever available information in the records have been furnished on 24/09/2019 to the appellant.
11. I have perused the records available in the file and considered submissions of both the parties.
12. The PIO is supposed to furnish the information as available and as it exists in the records of the public authority. The PIO have specifically stated that the available information as per the records have been furnished by him to the appellant.
13. Since the available information is now being furnished to the appellant during the present proceedings, I find that no further intervention of this Commission is required for the purpose of furnishing information.
14. From the submission of the appellant it appears that she has got grievance for not taking action on her applications/ representations by the Village Panchayat. This Commission is not empowered and have got no jurisdiction to entertain the said above grievance of the appellant. The appellant if so desired may approach the competent forum to redress her above grievance.
15. It is seen from the records that the application u/s 6(1) of the act was filed by the appellant on 17/06/2019. 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 to. The contention of the appellant in the appeal is that the said application was not responded to at all by the PIO thus from the undisputed and unrebutted averments, I find some truth in the contention of the appellant that the Respondent No. 1 PIO have not acted in the conformity of the Right To Information Act, 2005.

16. It appears that the order dated 7/08/2019 of first appellate authority was not complied by the Respondent PIO. The PIO failed to show as to how and why the delay in responding the application and/or not complying the order of first appellate authority was not deliberate and /or intentional.

17. 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.

18. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act or has no respect to obey the order passed by the senior officer. Such a conduct of PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-vis the intend of the Act.

19. 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 not compliance of order of first appellate authority and for delaying the information.

20. 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 her application dated 17/06/2019, 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), for not complying the order of first appellate authority and for delay in furnishing the 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 17/10/2019 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