

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

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**Appeal No. 308/2018/SIC-I**

Mrs Alice Mathias,  
House No.280, Bamon waddo,  
Candolim, Bardez Goa.

....Appellant

V/s

1) The Public Information Officer, (PIO)  
Secretary Village Panchayat Candolim,  
Candolim, Bardez Goa.

2) First Appellate Authority,  
Block Development Officer II,  
Mapusa Goa.

.....Respondents

**CORAM:**

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

Filed on: 24/12/2018

Decided on: 28/2/2019

**ORDER**

1. The second appeal came to be filed by the appellant Mrs Alice Mathias on 24/12/18 against Respondent No. 1 Public Information Officer (PIO) of Office of Village Panchayat Candolim and as against Respondent no.2 first appellate authority under sub section (3) of section 19 of the Right To Information Act, 2005.
2. The brief facts of the present appeal are that the appellant vide her application dated 5/7/2018 had sought for certain information as listed at point no. 1 to 3 therein in the said application. The said information was sought by the appellant from Respondent no. 1 PIO in exercise of her right under sub-section (1) of section 6 of RTI Act.
3. It is the contention of the appellant that her above application was responded by Respondent PIO on 7/8/2018 there by seeking extension of time on the ground that the information sought was

voluminous and 30 days time period was not sufficient to trace the record.

4. It is the contention of the appellant on the receipt of the letter from PIO she vide her letter dated 8/8/2018 requested the Respondent No.1 PIO to furnish the information within 30 days as mandated as per the RTI Act 2005 and the PIO failed and refused to furnish the said information within 30 day time .
5. It is the contention of the appellant that since no information came to be furnished to her and considering the same as refusal she filed first appeal on 14/8/2018 before the Respondent No.2 Block Development Officer-II being first Appellate Authority and the Respondent No. 2 vide order dated 11/9/2018 allowed her appeal and directed Respondent No. 1 to furnish the information within 10 days free of cost.
6. It is the contention of the appellant the despite of the order of first appellate authority, no information came to be furnished to her as such being aggrieved by such an action of Respondent No. 1 PIO is forced to approach this commission by way of second appeal .
7. In this background the present appeal has been filed by the appellant, thereby seeking relief of directions to Respondent No.1 PIO of furnishing her the requisite information as sought by her vide her application dated 5/7/2018, for invoking maximum penalty of Rs. 25,000/-and for initiating disciplinary proceedings against PIO and for seeking compensation for harassment and detriment caused to her.
8. The matter was listed on board and was taken up for hearing. In pursuant to the order of this commission the appellant was present on two occasions and on other date by virtue of letter of authority Shri Roshan Matias appeared on behalf of appellant.

Respondent PIO was represented by his Advocate Parishit Sawant. Respondent No.2 first appellate authority represented by Shri Umesh Shetgaonkar (UDC).

9. During the hearing before this Commission the representative of the appellant submitted that he has received the information from the PIO on 24/01/2019. However, it is his grievance that the part of the information furnished to him is not clear and visible as the stamps have been put on the contents of the same. The representative of the appellant substantiated his above contention by showing the documents to the Commission and the advocate for the PIO and it was noticed that part of the contents of the said documents were not clearly visible and readable since the stamp was put on the contents of the said documents. The Advocate for the Respondent PIO undertook to furnish him legible copies once again.
10. The Representative of the Appellant submitted that the list of the documents was submitted to the Respondent PIO on 14/02/2019 whose contents were not visible and the obstruction was caused due to the rubber stamping on the contents. He further submitted that vide letter dated 18/02/2019 it was brought to the notice of the PIO that the information sought in para (3) was also not fully provided to appellant. It is their contention that there is no details of the either names of the establishments or the person to whom the records are referred to.
11. It is further contention of the representative of the Appellant that despite of providing the list and bringing to the notice of the Respondent PIO no complete information came to be provided to appellant. The letter dated 14/02/2019 and letter dated 18/02/2019 addressed to the PIO by the appellant herein were placed on record by the representative of the appellant vide application dated 26/02/2019.

12. The matter was adjourned twice for arguments on the request of the advocate of the Respondent PIO and during third hearing on 26/02/2019 the PIO and his advocate did not appeared. The Representative of the appellant submitted that the PIO is deliberately avoiding furnishing him the information and that he required the same on the priority basis as the same needs to be submitted before competent court. Hence his arguments were heard.
13. PIO failed to file appropriate reply to the appeal proceedings neither arguments were advanced by him despite of giving opportunities to him. Hence the Commission presumes and holds that PIO has got no say to be offered and the averments made in the memo of appeal by the appellant are not disputed by him.
14. The representative of the appellant submitted that the said information was sought in the larger public interest in order to approach the Director of Panchayat. It was further submitted that the procedures were not followed properly to decide on the rate of trade tax or garbage tax and there is discrepancy in the rates given to different guest house and in some of the cases discounts are being given to the guest house which is not legally permissible. It was further submitted that irregularities and illegalities have been committed by the Panchayat and the loss to public exchanger has been caused and to expose such an act of the Panchayat the said information was sought.
15. It is the case of the appellant as stated in memo of appeal is that she had gone to collect the information but the same was not furnished to her by Respondent No.1 PIO. It was further contended that despite from the order from first appellate authority no information came to be furnished to her. It is her further contention that lots of hardship has been caused to her in pursuing the RTI application before different authorities, and on that ground prayed to impose maximum penalty of Rupees 25,000/- to the PIO .

16. I have considered submissions of the appellant and also documents available on the records.
17. The apex Court in S.P. Gupta V/s Union of India, AIR 1982 SC 149 has observed in tents of RTI Act.

*"No democratic Government can Survive without accountability and the basic postulate of accountability is that people should have information about the functioning of the Government, that an open Society is the new democratic culture towards which every liberal democracy is moving and our society should be no exception. The concept of the open Government is the direct emanation from the right to know which seems to be implicit in the right of freedom of speech and expression guaranteed under Article 19(1)(a). Therefore, disclosure of information in regards to the **functioning of the Government must be the rule, and secrecy an exception**, justified only where the strictest requirement of public interest so demands".*

18. The Supreme Court in State of U.P. V/s Raj Narayan (1975) 4 Supreme Court Cases 248 observed :-

*"The people of this country have a right to know every public act, everything that s done in a public way, by their public functionaries. They entitled to know the particulars of every public transaction in all its bearings. The Right to know which is derived from the concepts of freedom to speech, though not absolute, is a factor which can, at any rate, have no repercussion on the public security. To cover with a veil of secrecy their common routine, denial is not in the interest of the Public. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of partied and*

*political or personal self-interest or bureaucratic routine. The responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption."*

19. The Hon'ble high Court of Alahabad while deciding the writ number 45252 of 2005, Praveen Varma V/s Hon'ble High Court of jurisdiction reported in 2008 (1) RTI 137 has discussed ambit and scope of section 3, 4, and 6 and has held that:-

*"the disclosure of information in regards to the functioning of Government must be rules and secrecy of as an exception."*

20. Keeping in view the objective that act seeks to achieve, this commission will have no hesitation in holding that the spirit of the act enjoins disclosure of information as a general rule and the exemption there from as an exception.

21. In the present case the information sought by the appellant are the public documents. It also does not qualified to be exempted under section (8) of the RTI Act. The appellant has established the information required by her in a larger public interest. As such taking into consideration the facts of the present case and the purpose for which the information is sought this commission is of the opinion that legible and readable copies needs to be provided to the appellant.

22. It is seen that as per the records the RTI application was filed by the appellant on 5/7/2018 which was received by the office of respondent no 1 on 9/7/2018 vide inward entry No. 1429. Though the said was responded within 30 days from the said date, on perusal of the said it is seen that only the extension of time was sought to trace the records. As per section 7 the PIO on the receipt of the request was required either to provide information on payment of such fees or reject the request for any of the reasons

specified of section 8 and 9 of the RTI Act. There are no records produced by the PIO that the same is adhered too. No information came to be furnished to the appellant even after the order of the first appellate authority by the PIO. 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 11/09/2018 as such the PIO was required to furnish the information on or before 22/9/2018. There is nothing on record produced by the PIO that the order of the First appellate authority was complied by him within time. There is a delay in furnishing the information. The information came to be provided to the appellant by PIO only on 24/01/2019 that too during the present appeal proceedings. That some of the information which is submitted during the present proceedings rubber stamp have been affixed on the contents of the same. The appellant also submitted the list which was inwards in the office of Candolim Panchayat vide entry no. 5244 dated 14/02/2019 and also letter dated 18/02/2019 which was also received by the office of Village Panchayat Candolim vide entry no. 5266 dated 18/02/2019, despite of the same PIO failed to provide him information.

23. Based on the records it could be gathered that PIO failed to provide him complete information despite of repeated request by the appellant. Such a conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant visa viz the intent of the act.
24. 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 is 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 not be imposed on him/her, for not compliance of order of FAA and for delaying the information.

25. I therefore dispose the present appeal with order as under:

### **ORDER**

- a) Appeal allowed.
- b) The Respondent No. 1, PIO is hereby directed to furnish fresh copies of documents listed by the appellant vide her letter dated 14/02/2019 free of cost where contents cannot be fully read due to the obstruction caused due to rubber stamping on the contents.
- c) The Respondent, PIO is also directed to provide complete and correct information as sought by the appellant at point no. 3 vide her application dated 5/07/2018.
- d) Issue showcase notice to respondent PIO to showcase 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) of RTI act, for not complying the order passed by the first appellate authority within time and for delaying furnishing the information.
- e) 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.



- f) The respondent PIO is hereby directed to remain present before this commission on 12/3/2019 at 10.30am alongwith written submissions showing cause why penalty should be imposed on her.
- g) 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