

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 232/2018/SIC-II

Mr. Joseph Sequeira,
Joe Leitao Residency,
Naika Vaddo, Calangute,
Bardez-Goa. 403 516

..... Appellant

v/s

1. Public Information Officer,
Village Panchayat of Calangute,
Bardez-Goa. 403 516.
2. First Appellate Authority,
Block Development Officer,
Mapusa, Bardez-Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing : 05-08-2019

Date of Decision : 05-08-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide two RTI applications dated 12/03/2018 and 05/03/2018 sought certain information u/s 6(1) of the RTI Act, 2005 from the Respondent PIO, Secretary, Village Panchayat, Calangute, Bardez - Goa. The Appellant is *inter alia* seeking information in RTI application dated 12/03/2018 regarding documents of Amalgamation of Plots and approved plans of Elite builders also survey no. 319/2,3,4,5,7,12 320/4,5 and 322/5,6 at Gaura Vaddo Calangute viz; 1) To issue the approve plans from the Town and Country Panning/NGPDA/GCZMA/CRZ/Calangute Panchayat. 2) To issue the legal documents which pertains to said survey number. 3) To issue the construction Licence/Permission issue to the said parties. 4) To issue the Occupancy certificate from the NGPDA/Panchayat. 5) To issue site inspection report and verification of document which was taken by the Panchayat. And 6) To issue the certified copies of the application received by your office and discussed in the monthly meeting held and also enclosed resolution A. On 14/07/2017 at page no. 138 of Resolution no.IXJ (82)....

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.....and B. On 16/08/2017 at page no. 249 of resolution no.IXJ (116). Certified copy of application and resolution copy and also Licence issued to her with (Establishment Panchayat Copy).

2. In RTI application dated 05/03/2018 the Appellant is seeking information regarding documents of Hotel building survey no. 148/2 and 146/1 & 2 at Gaura Vaddo Calagute 1) To issue the approve plans from the Town and Country Panning/NGPDA/GCZMA/CRZ/Calangute Panchayat. 2) To issue the legal documents which pertains to said survey number. 3) To issue the construction Licence/Permission issue to the said parties. 4) To issue the Occupancy certificate from the NGPDA/Panchayat. 5) To issue site inspection report and verification of document which was taken by the Panchayat.
3. Finding that there is no response from the PIO to both his RTI applications, the Appellant thereafter filed a First Appeal on 05/06/2018 and First Appellate Authority (FAA) vide an order dated 28/06/2018 on proceeding sheet disposed off the First Appeal case by directing the PIO to furnish the information to the Appellant within 07 days of the order free of cost.
4. It is seen that pursuant to the order of FAA, the PIO vide letter no. VP/Cal/F-53/18-19/2041 dated 08/08/2018 has furnished information at point nos. 2, 6, 6A, 6B by enclosing copies and at point no.4 it is stated as not issued and at point no. 5 it is stated that verification of documents have been done. It is further seen that Appellant vide his letter dated 17/07/2018 informed the PIO that documents which have been sought has not been furnished and only few documents have been furnished.
5. Being aggrieved that incomplete information has been furnished by the PIO, the Appellant subsequently filed a Second Appeal before the Commission registered on 27/09/2018 and has prayed that the Appeal be allowed and to impose penalty and other reliefs. ...3

6. **HEARING:** During hearing the Appellant Shri. Joseph Sequeira is present in person. The Respondent PIO and FAA are both absent.
7. **SUBMISSION:** At the outset Appellant submits that he had filed two RTI applications dated 05/03/2018 and 12/03/2018 and although the FAA had directed the PIO to furnish the information, the PIO has provided incomplete information vide letter no. VP/Cal/F-53/18-19/2041 dated 08/08/2018 and further although he had brought the facts to the notice of the PIO through his letter dated 17/07/2018, but there was no response.
8. It is also submitted that on the last hearing the PIO had assured to furnish the remaining information but he has not done so and therefore penalty should be imposed and directions should also be given to the PIO to furnish the remaining information.
9. **FINDINGS:** The Commission after hearing the submission of the Appellant and perusing the material on record finds that incomplete information has been furnished by the PIO with respect to RTI Application dated 12/03/2018. Also the RTI application dated 05/03/2018 has not been responded by the PIO and no information has been furnished to the appellant. The Commission finally finds that it is true that during the last hearing as submitted by the Appellant, the PIO had agreed to furnish the information, but it appears he has neglected his assurance.
10. **DECISION:** The Commission accordingly directs the respondent PIO to furnish the remaining information with respect to both the RTI applications dated 12/03/2018 and 05/03/2018, if available in the records within 30 days of the receipt of this order (latest by 16th September 2019). In the event, that if certain information is not available in the records, the PIO should inform the Appellant clearly by stating that information is not available with the Public Authority.

11. The Appellant presses for penalty, however the Commission is of the considered opinion that as per the principle of natural justice penalty cannot be imposed without first hearing the PIO. Therefore issue notice u/s 20(1) of the RTI act 2005 calling for an explanation from the PIO for failing to perform the duty cast upon him as per the RTI act 2005.

Issue Notice to Respondent PIO

Issue Notice u/s 20(1) of the RTI act 2005 to the concerned Respondent PIO, Shri Raghuvir Bagkar, Secretary, V.P Calangute to show cause why penal action should not be taken against him for neglecting to furnish a reply to both the RTI applications which is mandatory as per section 7(1) and also for not complying with the order of the FAA by providing complete information. The said PIO shall remain personally present before the commission in person with his explanation, if any on 13th September 2019 at 11.30am.

With these directions the Appeal case stands disposed.

Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner