

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Appeal No. 38/2019/SIC-I

Santana Piedade Afonso
H. No. 263, Comba Central,
P.O. Cuncolim, Salcete Goa

... Appellant

V/s

- 1) Shri Joao B. Fernnades,
Public Information Officer,
Office of Mamlatdar of
Salcete, Taluka,
- 2) Shri Uday Naik,
Dy. Collector & SDO
First Appellate Authority,
Office of the Mamlatdar of,
Salcete, Taluka
1 st Floor, Mathany Saldanha
Administrative Complex,
Margao – Salcete Goa.

.....Respondents

CORAM:

Ms. Pratima K. Vernekar, State Information Commissioner

Filed on: 18/02/2019

Decided on: 28/03/2019

ORDER

1. The brief facts leading to the second appeal are that the appellant Shri Santana Piedade Afonso vide his application dated 20/09/2018 had sought for certified copies of the list of all Talatis employed by the Government of Goa and deputed them, in the village of Salcete Taluka along with their names, workplace date of joining, promotions etc. The said information was sought from the Respondent No 1. Public Information Officer (PIO) of the

office of Collector South Goa at Margao-Goa in exercise of appellant right u/s 6(1) of Right to Information Act, 2005.

2. It is the contention of the appellant that the Public Information Officer (PIO) of Office of Collector and District Magistrate, South Goa transferred his application to the Respondent No. 1 Public Information Officer (PIO) of Mamlatdar of Salcete at Margao Goa vide letter dated 26/9/18 interms of section 6 (3) of Right to Information Act, 2005 with a request to furnish the relevant informtion directly to the appellant. The copy of the same was also marked to the appellant here in.
3. It is the contention of the appellant that he made several visits to the office of the Public Information Officer (PIO) requesting him to provide the informtion sought and to grant him sue motto inspection of the above files / documents / records.
4. It is the contention of the appellant that his above application filed in terms of sub section 1 of section 6 was not responded by the Respondent No. 1 Public Information Officer (PIO) within stipulated time of 30 days and as such deeming the same as rejection, the appellant filed first appeal to Respondent No. 2 First Appellate Authority (FAA) on 02/11/2018 u/s 19(1) of Right to Information Act.
5. It is the contention of the appellant that the Respondent No. 2 First Appellate Authority (FAA) vide order dated 13/12/2018 allowed his appeal and directed the Respondent No. 1 Public Information Officer (PIO) to issue the information to the appellant, free of cost as sought by him vide application dated 20/9/2018 within 15 days from the date of the order.
6. It is the contention of the appellant that inspite of the said order of First Appellate Authority (FAA), the said information was not furnished to him by Respondent No. 1 Public Information Officer (PIO) as such being aggrieved by the said action of Public

Information Officer (PIO), the appellant has approached this commission in his second appeal as contemplated u/s 19(3) of Right to Information Act.

7. In the second appeal the appellant had sought for direction as against Respondent No. 1 Public Information Officer (PIO) for furnishing required information as sought by him vide application dated 20/9/2018 and for invoking penal provisions .
8. Notices were issued to both the parties. Appellant appeared in person. Respondent Public Information Officer (PIO) was represented by Sharad Naik who placed on record the reply of Public Information Officer PIO on 28/3/2019 thereby enclosing the information on all points along with the documents. Respondent No. 2 First Appellate Authority (FAA) opted to remain absent. The copy of the reply filed by Respondent Public Information Officer (PIO) along with the documents was furnished to appellant.
9. The appellant on verification of the information submitted that he is satisfied with the information furnished to him during the present proceedings however he vehemently pressed for invoking penal provision on the ground that the Public Information Officer (PIO) gravely ignored the provisions of the said Right to Information Act and lots of his valuable time and hardship has been caused to him in pursuing the said application.
10. I have considered the submission made on behalf of both the parties and also the records available in the file.
11. It is seen that as per the records the application was filed by the appellant on 20/9/2018 which was transferred to the office of Respondent No 1 on 26/9/2018 under section 7(1) of the Right to Information Act the Public Information Officer (PIO) is required to respond the same within 30 days from the

date of the receipt of the application by him. There are no records produced by the Respondent No. 1 Public Information Officer (PIO) that the same is adhered too. The order of the First Appellate Authority (FAA) had directed Public Information Officer (PIO) to issue the information within 15 days. As such the Public Information Officer (PIO) was duty bound to comply the direction of his superior officer and was required to provide the information within 15 days. It is seen that the order was passed on 13/12/2018 as such the Public Information Officer (PIO) was required to furnish the information on or before 30/01/2019. There is nothing on record produced by the Public Information Officer (PIO) that the order of the First Appellate Authority (FAA) was complied by him within time. The information came to be provided to the appellant only on 28/3/2019 that too during the present appeal proceedings. Such a conduct by Public Information Officer(PIO)is obstructing transparency and accountability appears to be suspicious and adamant visa viz the intent of the act.

12. Considering the conduct of Public Information Officer (PIO) and his indifferent approach to the entire issue, I find prima facie some substance in the argument of the appellant that the Public Information Officer (PIO) purposely and malafidely refused access to the information. Such allegation if proved would call for disciplinary proceedings and imposition of penalty against Public Information Officer (PIO). However before imposing penalty I find appropriate to seek explanation from the Public Information Officer (PIO) as to why penalty should be imposed on him/her for contravention of section 7(1) of the Right to Information Act, for not compliance of order of First Appellate Authority (FAA) and for delaying the information.
13. I therefore dispose the present appeal with order as under:

ORDER

1. Appeal partly allowed.
2. Since information being provided during the present proceedings, I find no intervention of this commission is required for the purposed of furnishing information.
3. Issue showcase notice to respondent Public Information Officer (PIO) to showcase as to why no action has contemplated u/s 20(1) and/or 20(2) of the Right to Information Act, 2005 should not be initiated against him/her for contravention of section 7(1) of Right to Information Act, for not complying the order passed by the First Appellate Authority (FAA) within time and for delaying furnishing the information.
4. In case the Public Information Officer (PIO) at the relevant time, to whom the present notice is transferred, the present Public Information Officer (PIO) shall serve this notice along with the order to him and produce the acknowledgment before this commission on or before the next date fixed in the matter along with full name and present address of the then Public Information Officer (PIO).
5. The respondent Public Information Officer (PIO) is hereby directed to remain present before this commission on 10/04/2019 at 10.30am along with written submissions showing cause why penalty should be imposed on him.
6. 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