

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

Appeal No. : 90/2019/SIC-I/

1. Clotildes Braganza e D'Silva,
Maria Rosa Apartments,
Naicavaddo, Calangute
 2. Antonio Jose De Souza,
H. No. 1/133-A Gauravaddo,
Calangute, Bardez, Goa, 403516
 3. Regina Norton, House No. 261,
A-7, Naicavaddo,
Calangute, Bardez-Goa
- ...Appellants
- V/s
- Public Information Office (PIO)
Administrator of Comunidades,
North Goa Zone, Mapusa, Bardez, Goa, 403507
-Respondents.

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 19/02/2019

Decided on: 10/06/2019

ORDER

1. The second appeal came to be filed by appellant Shri Clotildes Braganza e D'Silva and others against Respondent Public Information Officer (PIO) of the Office of Administrator of Comunidades, North Goa Zone, Mapusa, Bardez-Goa 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 Shri Clotildes Braganza e D'Silva and others filed application on 15/11/2018 seeking certain information from the Respondent PIO of the Office of Administrator of Comunidade North Zone, Mapusa, Bardez-Goa on several

points as listed therein at points (a) to (j) in the said application pertaining to the Comunidade of Calangute .

(b) According to the appellant their said application was not responded by the Respondent PIO herein nor the information furnished to them 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 bearing No. RTI /AC-2/APL/34/2018 before the Additional Collector –II, Collectorate Building at Panaji being First Appellate Authority which was disposed by order dated 28/01/2019. By this order the First appellate authority (FAA) directed respondent PIO to furnish information in his possession to the appellant, free of cost, within period of 15 days from the date of order.

(c) It is contention of the appellant that Respondent PIO did not comply the order of FAA and also did not furnish them information as such being aggrieved by the action of PIO, are forced to approach this Commission by way of 2nd appeal.

3. In this background the appellant has approached this Commission on 21/02/2019 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 additional collector II and FAA as also seeking penal action for inaction on the part of PIO in complying with the provisions of the act and also compensation of Rs. 10000 to them for delay in providing information sought.

4. The Matter was taken up on board and was listed for hearing after intimating both the parties.
5. In pursuant to the notice of this Commission appellant No. 1 and 2 were present. Respondent PIO was represented initially by Shri. Ramesh Tulaskar .
6. The representative of PIO Shri Ramesh Tulaskar submitted that the letter have been made to Comunidade of Calangute on 16/11/2018 calling upon them to furnish the information however till date the information have not been received by them. He also submitted that they will make one more attempt to secure the information from the concern Calangute Comunidad and on that ground sought time to file reply and to furnish the information.
7. The representative of respondent PIO since did not place on record any letter of authority as such he was directed to place on record the said document PIO was also directed to remain present on the subsequent date of hearing, despite of the same neither the PIO nor his representative appeared nor filed any reply to the proceedings despite of giving opportunities. Being so the submission on behalf of appellant were heard.
8. The appellant in his submission submitted that they are knocking the doors of different authorities to get the said information which was sought by them with specific purpose in order to redressed their grievances before appropriate forum with the larger public interest. It was further submitted that the PIO have not furnished them the requisite information intentionally and deliberately as he is trying to shield the irregular and illegal acts of the said Comunidade which they are trying to bring to light. It was further contended that the PIO

did not adhere to the direction given by the FAA vide order dated 28/01/2019. It was further submitted that the PIO has showed scant respects/ regards for this Commission and the FAA has deliberated opted to remain absent. It was further contended that they want the information on urgent basis in order to approach the Hon'ble High Court of Bombay at Goa and the respondent is adopting such delay technique in order to prevent them from filing legal proceedings before Hon'ble High Court. It was further submitted that lots of valuable time and energy have been lost in pursuing the application. And on the above grounds he prayed for directions to PIO for furnishing them information on priority basis and also for invoking penal provisions.

9. As the Respondent PIO did not file any reply, I presumed and hold that they have got no say to be filed and the averment made by the appellant in the memo of appeal are not disputed by them.
10. I have perused the records and considered submission on behalf of appellant.
11. As per the records the application u/s 6(1) of the act was filed on 15/11/2018. 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 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 have not acted in the conformity of the RTI Act, 2005.
12. It appears that the order dated 28/01/2019 of first appellate authority was not complied by the Respondent PIO. The order of first appellate authority reveals that the Respondent did not appear before

him despite of due service of notice and did not bothered to file reply. The same is also in the present case. Despite of the due service of notice and direction of this Commission to him to be present before this Commission, the PIO failed to appeared and 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.

13. 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.
14. 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.
15. 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.
16. I therefore dispose the present appeal with order as under ;

Order

Appeal allowed

- a) The Respondent No. 1 PIO is directed to comply with the order passed by the First appellate authority dated 28/01/2019 and to provide the information to the appellant as sought by him vide his RTI Application dated 15/11/2019, within 20 days from the date of receipt of this order by him.
- 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 27/06/2019 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