

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.169/SIC/2013

Mr. Gabriel Joseph Fernandes,
H. No. 132, Umttavaddo,
Calangute, Bardez – Goa.

..... Appellant

v/s

1. Public Information Officer,
Secretary,
Village Panchayat of Calangute,
Bardez – Goa.

.... Respondents

Relevant emerging dates:

Date of Hearing : 28-02-2019

Date of Decision : 28-02-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated on 11/07/2013 sought certain information from Respondent PIO, Secretary, V.P. Calangute, Bardez Goa under section 6(1) of the RTI act 2005.
2. The information is regarding (a) Certified copy of the resolutions taken at the fortnightly meetings of the Panchayat body from 01/11/2012 to 30/06/2013 (b) Copies of any resolutions taken by the Panchayat body to renovate the two illegal structures in Survey No.462/23 at Porba Vaddo Calangute. (c) Copies of the bills raised by the contractors to renovate the two illegal structures in survey No.462/23 and the mode of payments done to the contractors by the Panchayats. Cheques No. date, Bank name and branch and cash payment vouchers if any. (d) if any fund were sanctioned by the Government, B.D.O., Director of Panchayat or the Finance for carrying out the renovation of the two illegal structures in Survey No.462/23. (e) if there are any other sources for funding the renovation of the two structures in Survey No.462/23 and the names of the sources who have funded the renovation.

...2

3. It is the case of the Appellant that the PIO did not file any reply nor furnished any information as per section 7(1) and as such the Appellant filed a First Appeal before the Block Development Officer at Mapusa on 20/08/2013 and the First Appellate Authority (FAA) after issuing notices disposed off the said Appeal vide an order on the Roznama dated 18/09/2013 by directing the PIO, Secretary, V.P. Calangute to furnish the information as per the Original RTI application within 15 days of the date of receipt of Order.
4. Being aggrieved that despite the directions of the FAA, the PIO has not furnished any information, the Appellant thereafter has approached the Commission by way of Second Appeal registered on 16/12/2013 and has prayed that penalty be imposed on the Respondent PIO for not providing information and for other such reliefs.
5. **HEARING:** This matter has come up before the Commission on numerous previous occasions and thus by consent is taken up for final disposal. During the hearing Mr. Gabriel Joseph Fernandes is present in person. The Respondent PIO, Secretary, V.P. Calangute, Shri. Raghuvir Bagkar is also present.
6. **SUBMISSIONS:** At the outset the PIO submits that the information pertaining to the resolutions taken at the fortnightly meeting of the Panchayat body from 01/11/2012 to 30/06/2013 are not available and also the resolutions taken by Panchayat to renovate illegal structures Survey No.462/23 at Porba Vaddo, Calangute is also not available. It is further submitted the bills raised by the contractors to renovate the two illegal structures in Survey No.462/23 are as a result not available.

7. The PIO further submits that the Appellant has satisfied himself that the said records are not available by coming to the Panchayat and taking inspection of all records. The PIO files a copy of the written statement bearing No.VP/Cal/F-53/18-19/5305 dated 26/02/2019 which was sent to the Appellant confirming the facts which is taken on record.
8. The Appellant in his submission states that he is satisfied with the authenticity of the letter dated 26/02/2019, wherein he has been informed that as per the resolution register maintained by the Panchayat there is no content of the information sought as per the RTI application dated 11/07/2013.
9. The Appellant further submits that he had visited the Panchayat Office and has taken inspection of the records and that he himself is satisfied that the information is not traceable. The Appellant finally states that he has no grievance against the present PIO, however presses for penal action to be taken against the former PIO, Shri Kishor Pagi for not furnishing him timely reply nor information which is mandatory as per Section 7(1) of the RTI Act.
10. **FINDINGS**: The Commission on perusal of the material on record and after hearing the submission of both parties finds that the PIO has made a diligent efforts to trace the missing information, however the said information is not traceable. The Commission further finds that the Appellant has taken inspection of the file and is himself satisfied that the said information as per the RTI application is not traceable and which is also confirmed by the written statement sent by the PIO vide letter dated 26/02/2019.
11. **DECISION**: As stipulated in the RTI act the role of the PIO is to furnish information as is available in the records. The PIO is not called upon to create information or to do research to satisfy the whims and fancies of the Appellant.

12. The Commission finally finds that there is no malafide intentions on the part of the present PIO to either deny or conceal the information. As the said information was not available, the same cannot be furnished and therefore **Nothing further survives in the Appeal case which accordingly stand disposed.**
13. The Appellant has prayed for imposing penalty and taking action against the PIO for not furnishing any reply or information as is mandated under section 7(10) of the RTI act 2005 against the former PIO, Shri Kishor Pagi. However the Commission is of the considered opinion that such penalty cannot be imposed arbitrarily without hearing the former PIO who should be given an opportunity to explain his case.

Issue Notice to Respondent former PIO

Issue Notice u/s 20(1) of the RTI act 2005 to the concerned former Respondent PIO, Shri Kishor Pagi, former Secretary of V.P Calangute to show cause why penal action should not be taken against him for not furnishing the information timely within the mandated 30 days period. The said PIO shall remain personally present before the commission in person with his explanation, if any on 03rd April 2019 at 11.30am.

With these directions all proceedings in the Appeal case stand closed.

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