

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

Shri Prashant S.P. Tendolkar,
State Chief Information Commissioner,

Appeal No.296/2018/CIC

Shri Jawaharlal T. Shetye,
H. No.35/A Ward No.11.
Khorlim, Mapusa –Goa.

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Appellant

V/s

- 1)The Public Information Officer,
The Administrator of Comunidades,
North Zone, Mapusa Bardez Gao .
- 2) The First Appellate Authority,
The Additional Collector –II,
Collectorate of North-Goa District ,
Panaji –Goa. 403001.

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Respondents

Filed On: 11/12/2018

Disposed On: 30/08/2019

O R D E R

- 1) The appellant had filed application dated 03/09/2018 u/s 6(1) of The Right to Information Act 2005 (Act) seeking information in the nature of inspection of the file. According to him said application was not responded and in the first appeal filed by him the First Appellate Authority (FAA) by allowing the appeal, by order dated 19th November 2018, directed PIO to furnish the information.
- 2) On 11/12/2018 the appellant has filed the present appeal u/c 19(3) of the act on the ground that the PIO has failed to comply the order of FAA.
- 3) In the course of hearing of this appeal the PIO offered the inspection of the records as sought by appellant. Appellant

Sd/-

...2/-

accordingly made the endorsement, a copy of which acknowledgment is filed on record. During the hearing the appellant submitted that he has received the information and that he is pressing for the penalty as prayed by him.

- 4) Considering the above situation I find that intervention of the commission is unwanted in respect of prayer for information. Only the relief of penalty as prayed, is required to be dealt with herein.
- 5) Perused the records and considered the pleadings of parties. The appellant filed the application on 03/09/2018. PIO filed his reply on 24/05/2019 in this appeal. According to him a memorandum dated 28/09/2019 was issued to clerk of Comunidade seeking his assistance and vide letter dated 31/10/2018 the appellant was offered inspection and accordingly on 09/11/2018 the inspection was completed but the appellant has not made any endorsement. The said contention is not controverted by appellant.
- 6) By the order dated 19/11/2018 the PIO was directed by FAA to furnish inspection. No time limits was fixed therein. Appellant filed this second appeal on 11/12/2018. The appeal memo is silent as to when the said order was received by PIO. Consequently it cannot be conclusively concluded that there was violation of the order of FAA.
- 7) The Hon'ble High Court of Bombay, Goa bench at Panaji, while dealing with a case of penalty (***Writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others***) has observed:

Sd/-

...3/-

"11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."

- 8) Considering the ratio in the case of *A. Parulekar* (Supra) no conclusion can be drawn that the delay in furnishing information was deliberate or intentional.
- 9) In the above circumstances I find no grounds to invoke rights u/s 20(1) and/or 20(2) of the act to consider penalty and nothing survives to be decided otherwise. In the result the appeal is dismissed. Parties be notified.

Proceedings closed.

Pronounced in open hearing.

Sd/-
(Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji -Goa