

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Complaint No.64/2018/CIC

Shri Jagannath Kundaikar,
H. No.67/1, Chinchwada,
Chimbel, Tiswadi –Goa. 403006.

V/s

- 1) Public Information Officer,
Office of the Block Development Officer,
Junta House, 4th lift, 6th floor,
Panaji –Goa. 403001.

Filed On: 09/11/2018

Decided On: 25/04/2019

O R D E R

- 1) This is the complaint filed by the complainant u/s 18 of The Right to Information Act 2005 (Act for short).
- 2) By his application dated 13/03/2018, the complainant herein by exercising his right u/s 6(1) of the act sought information in the form of action taken on the memorandum dated 04/01/2018 issued by the respondent authority to BDO, Tiswadi.
- 3) The said application was replied by the PIO on 28/03/2018 informing the complainant that the said memorandum was not received by respondent authority and hence the information be treated as nil.
- 4) Aggrieved by the said response, the complainant filed the first appeal to Directorate of Panchayats, Panaji, who disposed the same by his order dated 19/07/2018 by directing the PIO to furnish the information.

Sd/-

...2/-

- 5) The complainant has approach this commission with the present complaint interalia on the ground for conducting an inquiry for alleged violation of the act. The complainant has prayed for conducting inquiry against the PIO and also the penalty and recommendation of disciplinary action. The complainant also prayed for the direction to PIO to provide the information.
- 6) The PIO, Shri Manesh Kedar appeared pursuant to notice issued by this commission and filed his reply on 14/02/2019. Vide his said reply it is submitted by PIO that by the application dated 13/03/2018 filed u/s 6(1), the complainant has sought for compliance report in respect of memorandum dated 04/01/2018 and reason for delay in taking action. The response of the PIO was, dated 28/03/2018 wherein it was informed that there was no memorandum dated 04/01/2018 received by the office of the respondent. The first appeal filed by the complainant was responded by the PIO by informing that there was no memorandum dated 04/01/2018 received by the respondent office.

The PIO has pointed out that the complainant has annexed to the present complaint memorandum, dated "11/01/2018" as the subject memorandum pertaining to which the information was sought. Whereas according to him, the application u/s 6(1) was not accompanied by any such memorandum and that it referred memorandum dated "04/01/2018" and not "11/01/2018".

Sd/-

...3/-

- 7) Though the complainant appeared initially, subsequently he didn't appear Today also, when matter was posted for arguments the complainant failed to remain present hence the submission of the PIO were heard.
- 8) In the course of submissions, PIO took my attention to annexure (C) of the memo of the appeal which is the memorandum dated 11/01/2018 as pertaining to which the information was sought by the application u/s 6(1). He pointed out that the said application u/s 6(1) referred to the memorandum dated 04/01/2018, which was never received by respondent authority.
- 9) Perused the records and considered the submissions. The act cast an implied duty on the seeker to seek the information with proper clarity so that information can be properly identified. In the present case the complainant has sought the information by referring to a memorandum, dated "04/01/2018" which was apparently not received and the PIO has answered appropriately. The said application never referred to the memorandum dated "11/01/2018" which is attached to the present appeal as the subject of information. Being so I find no infirmity on the part of PIO in answering that the alleged memorandum dated "04/01/2018" was not received. Be that as it may, the information as was sought and as is clarified in the present complaint by way of annexure pertains to a memo dated "11/01/2018". The complainant has not produced any memo dated "04/01/2018" being received by respondent authority. In these circumstances I find the response of PIO dated 28/03/2018 to be probable.

Sd/-

...4/-

10) 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:

"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."

11) Considering the above circumstances, I find that the act of PIO in response the application u/s 6(1) by reply dated 28/03/2018, is neither deliberate nor intentional denial of information. I therefore find no merits in the complaint and the same is dismissed.

12) However it is clarified that this order shall not effect the right of the complainant to seek the information pertaining to the said memorandum dated 11/01/2018, if he desires.

Order to be notified.

Proceedings closed.

Dictated and pronounced in the open proceedings.

Sd/-

(Shri. P. S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji -Goa

