

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

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

Complaint No.06/2019/CIC

Sarvesh R. Khandolkar,
H No.151, Carmi Bhat,
Merces, Tiswadi –Goa.
Pin : 403005.

..... **Complainant**

V/s

- 1) The Office Superintendent,
Administrative Branch,
DGP's Office, PHQ-Panaji (PIO).
- 2) The Sudt. Of Police (HQ),
Police HQs, Panaji .403001

..... **Respondent.**

Filed on: 28/01/2019

Decided on: 06/05/2019

O R D E R

- 1) The complainant herein by his application dated 09/10/2018 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information. PIO having failed to furnish the information within stipulated period, the complainant filed first appeal to the First Appellate Authority (FAA) on 09/11/2018.

In the meantime by letter dated 07/11/2018, the PIO offered the information on payment of the fees. According to complainant said letter was posted on 08/11/2018 and was received by him in the evening session on 09/11/2018 and accordingly the complainant received the information. According to him the information furnished is incomplete and misleading. However pursuant to an inspection the

Sd/-

...2/-

complainant was furnished the information which according to him was hidden by the PIO and such information is filed by complainant at Annexure VIII.

By this complaint, the complainant has prayed for recommendation of disciplinary proceedings against PIO for refusing information within 30 days and a warning to respondent No.2.

- 2) In the course of hearing, the complainant fairly admitted that as of date he has received the information as sought. However, according to him the PIO is liable for penalty in view of delay caused in furnishing information.
- 3) The parties have also filed their written arguments. In his submissions, it is the contention of complainant appellant that the PIO is habitually misusing RTI Act and that he had furnished incorrect misleading and incomplete information. He also has pointed out to the observations of the FAA and further referred to direction to PIO to conduct inspection. Complainant has also raised the issue of loss to Govt. Treasury in view of furnishing information free of cost.
- 4) In his written submission, the PIO has referred to sequence of events and submitted that he furnished the information vide letter, dated 7/11/2018. According to him the complainant filed subsequent letter on 22/11/2018 seeking specific information alleging therein as to how earlier information was incomplete. According to PIO the said application was filed before FAA, which appeal was finally disposed on 30/11/2018 and finally On 11/12/2018 the information was furnished to the complainant.

The PIO has also filed additional submissions on 10/04/2019.

Sd/-

...3/-

5) On perusal of the records and considering the submissions of the complainant, the information as was sought is furnished. Even otherwise, present proceedings being a complaint u/s 18 of the act, no orders to furnish information can be passed in this complaint. The only point which is thus required to be decided is whether in the facts and circumstances penalty can be imposed against PIO as provided u/s 20 (1) and/or 20(2) of the act.

6) In the present case the complainant has applied for the information on 09/10/2018 and the same was decided by the PIO on 07/11/2018, and dispatched on 08/11/2018. Admittedly the said reply was received by complainant on 09/11/2018.

If one considers the time in between the application u/s 6(1) and the reply u/s 7(1) the reply from PIO felt due on 08/11/2018, being the 30th day. Thus I find no delay on the part of PIO to decide the appeal, even if the reply was dispatched on 08/11/2018.

7) It is further the case of complainant that in the first appeal the FAA directed to conduct a visual inspection of relevant files on 05/12/2018 and that after inspection of the files the complainant submitted written request on 06/12/2018 and sought further information. Admittedly the information is received on 11/12/2018 as per annexure VIII of the memo of complaint.

8) Now if one considers the information as, submitted by PIO on 11/12/2018 it is in response to application dated 06/12/2018. Requirements under said application dated 06/12/2018 are distinct and not the same as of first application, dated 09/10/2018. Hence, considering the

Sd/-

...4/-

above circumstances the response dated 11/12/2018, being the decision on application, dated 06/12/2018 and not the one dated 09/10/2018, cannot be held as beyond time.

- 9) 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.”

- 10) Considering the ratio as laid down in the case of *A. A. Parulekar* above, firstly I do not find any delay in furnishing information. Even if held that there was a delay it cannot be held as deliberate or intentional. I therefore find no merits in the Complaint to invoke the right u/s 20(1) and/or 20(2) of the act.

In the result the complaint stands dismissed. Order be communicated to parties.

Proceedings closed.

Pronounced in open hearing.

Sd/-

(P. S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission
Panaji - Goa