

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Complaint No.05/2018/CIC

Ramchandra Manjrekar,
452, Tisca, Usgao, Ponda-Goa.
403406.

...Complainant

V/s

- 1) Public Information Officer,
Engineer, WD-II,
Water Resource Department,
Rawanfond, Margao-Goa.
- 2) A Public Information Officer,
Asst. Engineer, Sub Div-IV, WD-II,
Water Resource Department,
Ponda-Goa.
- 3) First Appellate Authority,
Superintending Engineer,
Central Planning Organization, WRD,
Sinchai Bhavan, Porvorim -Goa.

...Opponents

Date: 30/09/2019

O R D E R

- 1) The facts as pleaded by complainant in the present complaint are that by his application, dated 23/06/2017 he sought certain information from the PIO u/s 6(1) of The Right to Information Act 2005 (Act). The said application was not decided within time and hence he filed first appeal to First Appellate Authority (FAA).
- 2) That the FAA by order, dated 27/09/2017 allowed the first appeal and directed PIO to grant inspection and thereafter provide the required information free of cost.
- 3) According to complainant whenever he visited PIO he was denied access to information. The complainant has therefore filed the present complaint u/s 18 of the act.

Sd/-

...2/-

- 4) Notice was issued to PIO to show cause as to why penalty u/s 20(1) and/or 20(2) of the act should not be imposed on him. PIO filed his reply.
- 5) Vide his said reply it is contended by PIO that pursuant to the order of FAA he granted inspection to complainant on 16/10/2017 and appellant perused work order register movement register, RTI register, files alongwith other documents.

It is further according to him that the complainant demanded for Xerox copies of work order and documents relating to MRF Ltd, free of cost, which were beyond the information sought, however furnishing of such information was agreed. It is according to PIO, as the said information is beyond the one sought no time limit can be fixed.

- 6) Submissions of parties were heard. It is according to Shri S. Ray, representative of the complainant that the inspection was conducted on 16/10/2017 but the copies of the information furnished to complainant had nothing to do with the one which was asked. The complainant has not produced on record to show as to which copies he was furnished with.

On direction of the commission the PIO filed on record copies of the information submitted by him to complainant. The PIO has also filed on record acknowledgement of complainant having received certain documents. No where the complainant has recorded any grievance thereon protesting such information or

Sd/-

...3/-

that any further information is pending. The acknowledgement on the receipt is also not under protest.

- 7) Perused the records and considered the submissions. The complainant has not referred to any proceedings filed by him in the form of second appeal u/s 19(3) of the act to this commission. Being a complaint u/s 18, the limited point would be to consider whether the PIO has committed any willful default in furnishing information.
- 8) 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."

- 9) Though the complainant has sought a penalty in this proceedings, he has not filed any appeal seeking the information as sought by him by the application dated 23/06/2017. In this situation this commission holds that the information is duly received by complainant as sought and he has no further issue thereto.
- 10) Regarding the penalty as sought, it is seen from records that the complainant has acknowledged having received certain copies without any protest. The complainant has not shown as to which further copies he required.

Sd/-

...4/-

Moreover though the complainant had obtained the copies during inspection personally, all throughout the hearing the complainant failed to remain personally present. the submissions made through representative can be considered only as hearsay and it was only the complainant in person could have rebutted the contention of the PIO.

- 11) Considering the above circumstances this commission finds that the default of the PIO is not proved beyond all reasonable doubt to invoke the right to this commission u/s 20(1) and /or 20(2) of the act.

In the result the show cause notice dated 30/01/2018 issued by this commission stands withdrawn. Proceedings closed.

Order be communicated to parties.

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