

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

Complaint No. 4/2019/SIC-I

Shri Jawaharlal T. Shetye
H.N. 35/A, Ward No, 11,,
Near Sateri Temple, Khorlim,
Mapusa-Goa -403 507
V/s

....Appellant

- 1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa-Goa – 403507.

.....Respondent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 28/1/2019

Decided on: 02/05/2019

ORDER

1. The brief facts leading to present complaint are that the complainant Shri Jawaharlal Shetye by his application, dated 10/9/2018 filed u/s 6(1) of The Right to Information Act, 2005 sought for certain information from the Respondent No. 1 Public Information Officer(PIO) of the Mapusa Municipal Council concerning the news reporting in news paper Navhind times on 8/9/2018 with a caption "*Mapusa civic bodies agrees over pay parking in private property*" and the other information such as minutes of the council meetings, proposals received by the public authority from Goa Tourism Development corporation for installation of two high masts, etc. as listed at point 1 to 6 therein. The complainant had also sought for inspection of the two projects as listed at serial No.7 of the said application. The complainant also enclosed the photo copy of the paper clipping dated 8/9/2018 on the news paper Navhind times.
2. It is the contention of the complainant that he did not receive any reply to his above application from the PIO nor any information was furnished to him.

3. It is the contention of the appellant that as the information as sought was not furnished, he filed first appeal on 11/10/2018 to the Respondent No.2 Chief Officer of Mapusa Municipal Council being the First Appellate Authority .
4. It is the contention of the complainant that the Respondent No. 2 first appellate authority vide order dated 5/12/2018 directed the Respondent PIO to furnish the information to the complainant within 15 days free of cost.
5. It is the contention of the complainant that despite of the order of the first appellate authority no information came to be furnished to him as such he being aggrieved by action of PIO had to approached this commission in this complaint u/s 18 of the act on 28/1/2019 with the contention that the information is still not provided deliberately with malafide intention. The complainant herein have prayed for imposing penalty in terms of section 20(1) and 20(2) of RTI Act against the PIO Shri Vyankatesh Sawant and also sought compensation .
6. The matter was listed on board and was taken up for hearing. In pursuant to Notice issued to the parties, complainant was present in person. Respondent PIO Shri Vyankatesh Sawant was present along with Advocate Matlock D'Souza .
7. Reply was filed by Advocate M. D'Souza on 29/3/2019 on behalf of Respondent PIO. The copy of the same was be furnished to the complainant on 8/4/2019. Arguments were advanced by both the parties on 2/5/2019.
8. It is the case of the Complainant that respondent PIO as usual has once again has ignored to comply with the direction of his higher authority thereby he has committed the act of disobedience and behaved in a manner unbecoming of a Government /public servant and hence he is liable for penal

action under the provision of RTI Act 2005. It was also submitted that he is a senior citizen and grate hardship, mental agony, monitory loss has been caused to him in pursuing his application before the different authorities and on that ground a compensation was sought.

9. Vide his reply dated 29/3/2019 it had been submitted on behalf of PIO that the complainant is a chronic litigant and has been filing time and again RTI application which are hampering the work timing of PIO and also the regular work . It was further submitted that almost every week there are appeals preferred and that respondent has to file reply to the same and also attend the hearings. It was further submitted that the complainant has been abusing the said system and has rather targeting the process of RTI's by keeping on filing various RTI's against the Mapusa Municipal Council. It was further submitted that due to the filing of multiple application, complaints and appeals by the complainant, the functioning of the Mapusa Municipality gets hamper. It was further submitted that almost every second day the PIO is in the office of Information Commission for matters either appearing or preparing replies for appeals or complaints, penalty proceedings to be filed before the commission. It was further submitted that the complainant has been filing all such applications with such sinister motive of hampering the functioning of the Municipality and to harass the Mapusa Municipality and in the process the staff of Mapusa Municipal have been frustrated due to the filing of so may RTI application by the complainant mostly on the same or similar subject and hence the complainant has to be black listed from filing so many RTIs 1st appeals and 2nd appeals and it was further submitted that the complainant never initiated any proceedings against the Municipality on any information received before any court of law and therefore cannot be aggrieved party and as

such fine has to be imposed on a complainant for filing so many application, appeals, complaints and penalties proceedings. It was further submitted that complainant has been vindictive in his approach and he is only seeking penalties against the respondent and the prayers are a clear indications that the complainant is trying to harass the respondent PIO. It was further submitted that the PIO has acted in good faith and there are no malafide on his part. It was also submitted the complainant being a retired person has not disclosed how he has income to file so many appeals, applications, complaints etc.

10. I have gone through the records available in the file, considered the submission made on behalf of both the parties.
11. The RTI Act came into existence to provide fast relief as such the time limit is fixed to provide the information within period of 30 days, to dispose the first appeal maximum within 45 days and to transfer the application interms of section 6(3) within 5 days. It is seen that as per the records the application dated 10/9/2018 was filed and received by the office of respondent no. 1 on 10/9/2018. U/s 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. The Respondent PIO have not placed on records and documentary evidence of having adhere to section 7 of RTI Act. It is also not the case of PIO that the information has been furnished to the complainant or that he has responded to his application. The PIO has also not given explanation for not responding the said application.
12. The Respondent No.2 FAA in his order dated 5/12/2018 has also observed that no information was provided to the complainant by the PIO within time limit of 30 days and as such had directed PIO to furnish the information. The respondent PIO has not produced any documents on record of the having complied with the order of respondent No.2 first appellate authority (FAA). It is also not the

case of PIO that the order of the First appellate authority was challenged by him or has complied the order of first appellate authority. The PIO has also not placed on record any correspondence made by him to the complainant in pursuant to the said order. No reasons whatsoever nature were conveyed either to the first appellate authority nor to the complainant herein why he could not comply the said order in time.

13. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under RTI Act or has no respect to obey the order passed by Senior Officer. Such a conduct of PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-à-vis the intent of the Act .
14. The contention of the complainant that his RTI application was not responded within 30 days and PIO having failed to comply with the order dated 5/12/2018 have gone undisputed and unrebutted .
15. Thus I find prima facie some substance in the argument of the complainant that PIO purposely and malafiedly refused access to the information. Such and lapse on the part of PIO is punishable u/s 20(1) and 20(2) of RTI Act. Hence I find it appropriate to seek explanation from then PIO Shri Vyankatesh Sawant as to why the penalty should not been imposed on him for contravention of section 7(1)of RTI Act, for non compliance of order of first appellate authority and delay in furnishing information.
16. In the present case Complainant has also prayed for compensation for the harassment and agony caused to him by the Respondent for not providing information within time limit. Considering the provisions of the act, the said cannot be granted in the present proceedings being a complaint which is beyond preview of section 19 (8) (b) of RTI Act

17. In view of above, I disposed the present complaint with following order:-

ORDER

- i. Issue notice to Respondent PIO Shri Vyankatesh Sawant to showcause as to why no action as contemplated u/s 20(1) and /or 20(2) of the RTI Act, 2005 should not be initiated against him for contravention of section 7(1), for not complying the order of First Appellate Authority and for delay in furnishing the information.
- ii. The Respondent PIO Shri Vyankatesh Sawant is hereby directed to remain present before this commission on 8/5/2019 at 10.30 am alongwith written submission showing cause why penalty should not been imposed on him.

Complaint is disposed off and the further inquiry is posted on 8/5/2019 at 10.30 am.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-
(Ms. Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa