

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

Complaint No. 44/2019/SIC-I

Shri Sadanand Narvekar,
R/o H.No. 7/25,
Near Beiramar Oliva Resort, Sautavaddo,
Calangute, Bardez-Goa.

....Complainant

V/s

- 1) The Public Information Officer,
Mamlatdar of Bardez,
Government Office Complex,
Bardez, Mapusa-Goa.
- 2) First Appellate Authority,
Deputy Collector & SDO, Bardez,
Government Office Complex,
Bardez, Mapusa-Goa,

.....Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 02/07/2019

Decided on:28/11/2019

ORDER

1. The brief facts leading to present complaint are as under:-

(a) The Complainant, Shri Sadanand Narvekar by his application, dated 31/1/2019 filed u/s 6(1) of The Right to Information Act, 2005 sought for certain information as listed at point 1 to 4 therein from the Respondent No. 1 Public Information Officer (PIO) of the office of the Mamlatdar of Bardez at Mapusa-Goa. The said information was sought mainly pertaining to his complaint dated 7/1/2019 filed in the office of Mamlatdar of Bardez .

(b)It is the contention of the complainant that he did not receive any reply to his above application from the Respondent No.1 PIO nor any information was furnished to him within stipulated time of 30 days as contemplated under the RTI Act .

(c)It is the contention of the complainant that as the information as sought was not furnished, he filed first appeal

before the Respondent No.2 Deputy Collector and SDO, Bardez being the First Appellate Authority (FAA) .

(d) It is the contention of the complainant that the Respondent No. 2 first appellate authority ignored to pass any order on the first appeal within 30 days as such he being aggrieved by action of PIO and first appellate authority had to approached this commission in this complaint u/s 18 of the Act on 2/7/2019 with the contention that the information is still not provided deliberately with malafide intention.

2. In this background the complainant approached this commission herein and have prayed for inquiry u/s 18(2)(3) and for invoking penal provisions interms of section 20(2) of RTI Act against the Respondents.
3. 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 Laxmikant Kuttikar was present. Respondent No. 2 opted to remain absent.
4. Reply was filed by Respondent No. 1 PIO on 29/8/2019 and on 18/10/2019 alongwith the enclosures. No reply came to be filed by respondent no. 2 first appellate authority. Hence it is presumed that the Respondent No. 2 first appellate authority has no any say to be offered and the averments made by the complainant are not disputed by him.
5. Vide his reply dated 29/8/2019, the respondent PIO admitted of having received the application of the complainant and having forwarded the same on 1/2/2019 to the concerned dealing hand. It was further submitted that the dealing hand submitted the report on 12/2/2019 however since he was busy performing duty in ARO and AERO for two election work i.e Bye election of Mapusa Assembly constituency and Lok Sabha election 2019 he could not furnish the information to the complainant and the

same was lying in his office only and in support of his contention he relied upon letter dated 12/2/2019 addressed to the Mamlatdar of Mapusa by Sarita M. Morejkar. It was further submitted that the information sought by the complainant was kept ready could not be furnished to the complainant before the first appellate authority as the complainant did not appear before the first appellate authority and he placed on record the reply dated 4/4/2019.

6. The respondent PIO also annexed letter dated 24/7/2019 addressed to the complainant thereby providing information as sought by the complainant before this commission alongwith the reply dated 29/8/2019 .
7. I have gone through the records available in the file, considered the submission made on behalf of Respondent PIO and also the averment made in the memo of complaints.
8. 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 and 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 31/1/2019 was filed and received by the office of respondent no. 1 on 31/1/2019. 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 any documentary evidence of having adhere to section 7 of RTI Act. On the contrary Respondent PIO have admitted that the said was not responded within stipulated time of 30 days. Though the Respondent PIO have tried to justify the reasons for not responding the said application within stipulated time on the ground that he was busy with the election duties, however no any such supporting documents have been relied by the respondent PIO in support of his above contention.

9. The information came to be submitted to the complainant vide letter dated 24/7/2019 by post after the present complaint was filed. There is a delay in furnishing information.
10. The complainant herein has sought for recommending disciplinary action against Respondent no. 2 First appellate authority for not passing the order on his first appeal.
11. The respondent NO. 2 first appellate authority since not filed his say neither produced any documents on record of having passed an order in first appeal filed before him by the complainant, I have no hesitation to believe the contention of the complainant as averred in the complaint.
12. From the conduct of the both the respondents it can be clearly inferred that both the Respondents has no concern to their obligations under RTI.
13. However , as per the provisions of the RTI Act, only the PIO can be penalized u/s 20 of the RTI Act. I do not find any provisions under the act conferring powers to commission to impose penalty or initiating disciplinary proceedings against the First Appellate authority. Hence the relief as sought by the appellant in the present proceedings against Respondent No.2 first appellate authority cannot be granted.
14. I find prima facie some substance in the contention of the complainant. 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 as to why the penalty should not been imposed on him for contravention of section 7(1)of RTI Act, and for delay in furnishing information.
15. 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 the 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

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

ORDER

- i. Issue notice to Respondent PIO Shri Laxmikant Kuttikar to showcause as to why no action as contemplated u/s 20(2) of the RTI Act, 2005 should not be initiated against him for contravention of section 7(1) and for delay in furnishing the information.
- ii. The Respondent PIO is hereby directed to remain present before this commission on 16/12/2019 at 10.30 am alongwith written submission showing cause why penalty should not been imposed on him.
- iii. The Respondent No.2 the first appellate authority is hereby directed to be vigilant henceforth while dealing with the RTI matters and to deal and dispose the matter in accordance with law.

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