

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

Penalty Case No. 49/2018
In
Appeal No.213/2018/SIC-I

Shri Nigel Gonsalves,
5,Sorab House,
Khambatta Lane,
Byculla(E) Mumbai-400027.

.....Appellant.

V/s

1. Public Information Officer,(PIO)
Asst. Registrar of Co-operative Societies,
North Zone, Mapusa Goa 403507.
2. First Appellate Authority ,
Registrar of Co-operative Societies,
Goa Sahakar Sankul Building,
4th floor, Patto, Panaji.

.....Respondents

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

Decided on: 04/01/2019

ORDER

1. Brief facts leading to present penalty proceedings are as under:-
2. Earliar in the main second appeal No. 213/2018, an order was passed by this commission on 8/11/2018 directing to furnish the information to the appellant as sought by him vide his RTI application date 5/2/2018 within 20 days from the date of order and also had directed to issue showcause to PIO interms of section 20(1) and 20(2) of the of the Right To Information Act, 2005 for contravention of section 7(1) of RTI Act 2005 and for delay in furnishing the information .
3. In view of the said order passed by this Commission on 8/11/2018, the proceedings should converted into penalty proceedings.
4. Accordingly showcause notice were issued to PIO on 12/11/2018.
5. In pursuant to the notice, the PIO Shri P. S. Sawant appeared and filed the reply to showcause notice on 10/12/2018 alongwith

enclosures i.e letter dated 16/2/2018 addressed to appellant by PIO, letter dated 19/2/2017 addressed by the appellant to the PIO bearing acknowledgement of receiving the copies of the information, Notice in first appeal, order of this commission dated 30/11/2017 passed in appeal NO. 161/2017 and the letter dated 23/11/2018 addressed to the appellant by the PIO along with the postal acknowledgment of having furnished once again information. The copy of the reply could not be furnished to the appellant on account of his absence. However he was directed to collect the same before the next date of hearing and the matter was then fixed for arguments .

6. Oral arguments were advanced by Advocate Ganesh Kubal on behalf of Respondent PIO Shri P.S. Sawant.
7. It was contended that the appellant has come before this commission with uncleaned hands and had suppressed the true facts from this commission and has also not stated in his memo of appeal.
8. It was contended by the Respondent PIO that the appellant is misusing the office to take revenge due to personal vendetta against the others members of the society and attempting to pressurize the Respondent to act in the manner of his choice and his favour.
9. It was further contended that though the notice of second appeal was received by them, subsequently he lost the track in the matter and could not file his reply narrating the factual position in the matter.
10. The respondent PIO vide reply dated 10/12/2018 admitted of having received the application dated 5/2/2018 of the appellant and further contended that since the application was vague and not clear, he vide letter dated 16/2/2018 called upon the appellant to inspect the concerned file of which the information was sought and the appellant had visited their office on 19/2/2018 and has

carried the inspection of concerned file and had short listed the information he wanted and desired. Accordingly, on very next date i.e 20/2/2018 the information was furnished to the appellant and the appellant had acknowledged the same on the letter dated 19/2/2017 of having received the information on 20/2/2018.

It was further contended that the appellant also failed to appear before first appellate authority with his grievances and hence the first appellate authority was pleased to disposed his first appeal by coming to the conclusion that the information was already furnished to him .

11. It was further contended that in pursuant of order of this commission, the Respondent once again furnished all the information with the appellant had mentioned in the appeal memo.
12. In a nutshell, it is the case of PIO that he has furnished the desire information to the appellant even before filing the first appeal and the same was furnished to the appellant on 20/2/2018 and second time on 23/11/2018 in pursuant to the direction of this commission second appeal proceedings.
13. I have considered the records available in the file and also submission of the parties.
14. It is the contention of the appellant as stated in the memo of appeal that the PIO has not provided the information under the RTI Act for the third consecutive time and on that basis of such allegation the appellant has sought disciplinary proceedings and penalty .
15. There is no evidence on record produced by the appellant to show that the PIO acted not inconsonance with the provisions of RTI Act. on the contrary from the records it is seen that the PIO shown his willingness in furnishing the information right from the inception . It is observed by this commission that the letter was made by the

PIO to the appellant to carry out the inspection and for information. It is also on record that the inspection was conducted and the information was made available to the appellant on 20/2/2018 and the appellant acknowledge the same . The very fact that the information was given is sufficient to prove bonafide that the PIO acted reasonably and diligently. The commission therefore is of the considered view that the PIO had not faulted in any way .

16. The Hon'ble High Court of Judicature of Madras in W.p. No. 3776 and 3778 of 2013, P. Jayasankar V/s Chief Secretary has held;

“It is only in cases, where the authorities have disobeyed the order of this commission or there is specific findings of obligation of the public authority was not performed in terms of section 6 and 7 the question of penalty or direction to take disciplinary action will arise”.

17. The explanation given by the PIO appears to be convincing and probable as the same is supported by the documentary evidence.

18. By considering the above ratios laid down by various High Courts, I hold that there are no grounds to hold that information was *intentionally and deliberately* not provided to him.

19. The Delhi High Court in case of Shail Sahni V/s Sanjeev Kumar (W.P.CC) 845/2014 has held;

“ the court is of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this “Sun Act” . A beneficent statute when made a tool for mischief and abuse must be checked in accordance with law”.

20. In the present case the commission comes to the conclusion that the appellant has received the information and it appears that the cause for filing repeated multiple RTI application was to harass the staff of public authority and there is no public interest served as it is seen from the conduct of appellant that he is not interested

in receiving the information as no where in the memo of appeal the appellant has made such a prayer and instead has sought for invoking penal provision against the Respondent. The RTI Act cannot be use as a tool for harassing a public authority and to redress his personal grievances and hence the appellant herein is hereby directed to refrain from such tactics and to stop abuse of the process of law.

21. In the above circumstances I am of the opinion the levy of penalty is not warranted in the facts of the present case. Consequently showcause notice issued on 12/11/2018 stands withdrawn.

Proceedings stands closed.

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