

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Penalty 10/2019

In

Appeal No. 308/2018/SIC-I

Mrs Alice Mathias,
House No.280, Bamon waddo,
Candolim, Bardez Goa.

....Appellant

V/s

1) The Public Information Officer, (PIO)
Secretary Village Panchayat Candolim,
Candolim, Bardez Goa.

2) First Appellate Authority,
Block Development Officer II,
Mapusa Goa.

.....Respondents

CORAM:

Ms. Pratima K. Vernekar, State Information Commissioner.

Decided on: 03/05/2019

ORDER

1. This Commission Vide order dated 28/02/2019, while disposing the above appeal had directed Public Information officer (PIO)to furnish fresh copies of documents listed by the appellant vide her letter dated 14/2/19,free of cost where contents cannot be fully read due to the obstruction caused due to rubber stamping on the contents so also had directed Public Information officer to showcause as to why no penal action as contemplated u/s 20(1) and 20(2) of the Right to Information Act, 2005 should not be initiated against him/her for contravention of section 7(1) of RTI Act, for not complying the order passed by the First Appellate Authority (FAA) within time and for delay in furnishing the information .
2. In view of said order passed by this Commission on 28/2/2019, the proceedings should converted into penalty proceedings .

- 3 Accordingly showcause notice was issued to PIO on 04/03/2019. In pursuant to the showcause notice Shri Laurengo Ribeiro appeared once and thereafter he was represented by Adv Parishit Sawant.
4. Opportunities were granted to PIO to file his say to showcause dated 4/03/2019 and to explain his version, despite of same no say came to be filed by PIO .since the PIO failed to appear and as no say was filed ,hence this commission had to decide matter based on the available records .
5. 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.
6. From the records it could be seen that the RTI application dated 05/7/18 filed by the appellant was received in the office of Respondent PIO on 09/7/18. The said was responded by the Respondent PIO 7/8/18 wherein the extention of time was sought by the PIO for furnishing the required information to appellant on the ground that the information sought being voluminous, 30 days time period is not sufficient to trace the records .
7. Since no information was furnished ,the first appeal in terms of section 19(1) of RTI act came to be filed by the appellant on 14/08/18. On perusal of the proceeding sheet of first appellate authority , it could be gathered that the respondent PIO did not appear before first appellate authority and continuously remained absent despite of due service of notice neither filed reply to the proceedings. During the intervening period of first appeal also no bonafides have been shown by the PIO in furnishing the information to the appellant.
8. The Respondent No.2 FAA in his order dated 11/09/2018 came to the findings that no information was provided to the appellant by

the PIO and as such had directed PIO to furnish the same free of cost within 10 days from the date of order . As such the PIO was duty bound to comply the directions of his superior officer and was required to furnish the information on or before 22/9/18 .There is nothing on record produced by the PIO that the order of First Appellate authority was complied by him within time and information has been duly submitted to the appellant . It is also not the case of PIO that the order of the First Appellate authority was challenged by him .The PIO has also not placed on record any correspondence made by him to the appellant in pursuant to the said order. No reasons whatsoever nature were conveyed either to the first appellate authority nor to the appellant herein why he could not comply the said order in time.

9. Thus the contention of the appellant that no information as sought by her vide her application dated 5/7/18 was provided to her and PIO having failed to comply with the order dated 13/12/2018 have gone undisputed and unrebutted .
10. The information came to be submitted to the appellant on 24/1/19 that too during the second appeal proceedings .There is an delay in furnishing information. The records shows that the PIO repeatedly failed to provide correct and complete information to the appellant within time frame despite of same being available in the records of the public authority concerned herein . Such an conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-viz the intent of the Act.
11. The Hon'ble Gujarat High Court in special civil Application No.8376 of 2010 case of Umesh M. Patel V/s State of Gujarat has held that Penalty can be imposed if First Appellate Authority order not complied. The relevant para 8 and 9 is reproduced herein.

“Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the

order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty.”

12. The Hon’ble High Court of Punjab and Haryana. In Civil Writ Petition No.14161of 2009 Shaheed Kanshi Ram Memorial...V/s State Information Commission has held;

“As per provisions of the Act, Public Information Officer is supposed to supply correct information, **that too, in a time bound manner.** Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference”.

13. Yet in another case the Hon’ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission while maintaining the order of commission of imposing penalty on PIO has held;

“Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. **It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.**”

14. The Hon'ble Bombay High Court Goa bench in writ petition No.304/2011 Johnson V. Fernandes V/s Goa State information commission; AIR 2012 Bombay 56 has observed, at para 6

"Nothing prevented the petitioner for furnishing the information to Respondent de-hors the appeal. In fact, if the petition is intended to furnish the information to Respondent (information seeker) he could have communicated it without waiting for Respondent No. 2 (appellant) to file an appeal."

15. The appellant herein have been made to run from pillar to post in pursuing his RTI Application. If correct and timely information provide to the appellant it would have saved valuable time and hardship caused to the appellant. Such harassment & Detriment caused to appellant could have been avoided.

16. In view of above discussion, facts and circumstances of the present case and by subscribing to ratio laid down by above Hon'ble courts, I am of the opinion that this is an fit case for imposing penalty on PIO. Hence the following order.

ORDER

- i) The Respondent Public Information Officer, Shri Laurenco Ribeiro is hereby directed to pay a sum of Rs. 3,000/- (rupees three thousand only) as penalty for not complying the order of First Appellate Authority and for delay in furnishing the information. The penalty amount shall be credited to the Government Treasury.
- ii) The copy of the order shall be sent to the Director of Accounts, North at Panaji and to Block development officer, Mapusa, Bardez-Goa for information and implementation.

With the above directions the above penalty 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