

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Penalty 34/2019

In

Appeal No. 125/2019/SIC-I

Shri Vijay Kumar A. Shrodkar,
H. No. G/79/1, Goulem-Bhat,
Chimbel, Tiswadi-Goa

....Appellant

V/s

1) The Public Information Officer (PIO),
Union High School, Chimbel, Tiswadi-Goa

2) First Appellate Authority (FAA),
Dy. Director of Education, Central Education Zone,
Massan de Amorim, Panjim-Goa

....Respondents

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

Decided on: 23/09/2019

ORDER

1. The penalty proceedings have been initiated against the Respondent PIO under section 20(1) and or 20(2) of RTI Act, 2005 for the contravention of section 7(1) of Right To Information Act, 2005, for not complying the order of First appellate authority (FAA) and delay in furnishing the information.
2. The full details of the case are mentioned in the main order dated 8/07/2019. However, the facts are reiterated in brief in order to appreciate the matter in its proper prospective.
- 3 A request was made by the Appellant on 7/12/2018 for information on 8 points alongwith the copies of the documents pertaining to the teacher Shri Ganesh Naik working at Union High School, Chimbel Goa. As no information was given nor any reply was sent to Appellant in a statutory period of 30 days, hence the first appeal was filed by the appellant on 20/02/2019 to Deputy Director of Education, Central Education Zone, Panjim-Goa being First Appellate Authority (FAA).

And the First Appellate Authority (FAA) vide order dated 29/03/2019 allowed the appeal filed by the appellant and directed Respondent No. 1 to respond his application at the earliest. In compliance to the said order of FAA the Respondent PIO vide his letter dated 4/04/2019 requested to collect the information after paying the requisite fees. In pursuant to the said letter dated 4/4/2019 appellant authorised Mr. Meghnath Kundaikar to collect the information but the Respondent PIO refused to furnish the said information and hence the appellant brought the said fact to the FAA vide letter dated 9/04/2019 and the FAA vide letter dated 15/04/2019 informed appellant to approach this Commission with his grievances.

- 4 In this background the appellant approached this Commission by way of second appeal as contemplated u/s 19(3) of RTI Act, 2005, with the grievance stating that the respondent PIO did not provide him the information with malafide intention even though directed by the First appellate authority (FAA). In the said second appeal he has sought for directions for providing him correct and complete information and also for invoking penal provisions. During the hearing before this Commission a reply was filed by the PIO on 20/06/2019 resisting the appeal and disputing the averments made by the appellant in the memo of appeal. After hearing both the parties, the Commission vide order dated 8/07/2019 allowed the appeal of the appellant and directed to furnish the information to the appellant free of cost as sought by him vide his RTI application 7/12/2018 within 20 days from the date of receipt of the order by him. While disposing the Appeal No. 125/2019 also came to the prima-facie finding that there was delay in furnishing information and that the respondent PIO didnot act diligently while disposing off the request for information under the RTI Act and hence directed to issue showcause notice to the Respondent PIO.

5. In view of the said order dated 08/07/2019 the proceedings stood converted into penalty proceeding.
6. Accordingly showcause notice was issued to PIO on 15/07/2019. In pursuant to showcause notice, Advocate P. Rocha appeared and filed reply of Public Information Officer (PIO) on 26/08/2019 thereby providing pointwise information alongwith the enclosures .
7. Advocate for Respondent Public Information Officer (PIO) submitted to consider his reply as his argument.
8. The Respondent PIO have admitted that he was officiating as PIO when the application was filed by appellant herein 7/12/2018 and when the order was passed on 20/02/2019 by the First Appellate Authority (FAA). As per the records the application u/s 6(1) of the Act was filed on 7/12/2018. Under section 7(1) the PIO is required to respond the same within 30 days from the said date. There are no records produce by the PIO that the same is adhere to. The Order of the FAA also reveals that the Respondent had agreed that the reply to RTI application dated 7/12/2018 was not sent. The PIO has also specifically not disputed and reburtted the averments of the appellant of having not responded the application of the appellant within statutory period of 30 days and non compliance of order of Respondent No. 2 First Appellate Authority (FAA). Hence I have no hesitation in concluding that the Respondent have not acted in the conformity with the provision of RTI Act, 2005.
9. When the information was not furnished within time, the appellant as per section 7(6) is entitle to receive the information free of cost. The direction of the PIO to appellant to deposit requisite fee is contrary to the provisions of the Right To Information Act, 2005.

10. The PIO also failed to show as to how the delay in responding the application and delay in furnishing the information was not deliberate and was not intentional. It is also not the case of PIO that information has been furnished prior to the filing of the second appeal, on the contrary the records reveals that the information is only furnished in compliance to the order of this Commission dated 8/07/2019 vide their reply dated 26/08/2019 to showcause notice in the present penalty proceedings. There is delay of approximately about 8 months in furnishing the information. Such a conduct and attitude of Respondent PIO appears to be suspicious visa vis the intent of the RTI Act is not in conformity with the provision of the RTI Act.

11. If the correct and timely information was provided to the appellant, it would have saved valuable time and hardship caused to the appellant herein in pursuing the said application before different authorities. It is quite obvious that appellant has suffered lots of harassment and mental torture in seeking the information under the RTI Act which was denied to him till the order was passed by this Commission directing him to furnish the information. If the PIO has given prompt and correct information such harassment and detriment could have been avoided.

12. The Hon'ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission 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.”

13. By subscribing to the above ratio laid down by the Hon'ble High Court of Delhi incase of Mujibur Rehman (Supra), and considering the records available in the file, I find that the PIO has without reasonable cause repeatedly have failed to furnish the information within time. The entire conduct and attitude of the PIO is not in consonance with the Act. However, there is nothing on record that such conduct and attitude on the part of the PIO is persistent, considering this as the first lapse on the part of the PIO the lenient view is taken and the PIO is hereby admonished and is directed to be vigilant hence forth while dealing with the RTI matter and any lapses found in future shall be viewed seriously.

14. With the above directions the penalty proceeding stands closed.
Proceedings 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