

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

Penalty Case No. 07/2019
In
Appeal No. 11/2019/SIC-I

K. Krubeshwaran,
Flat No. A/F-2 Neelgagan Apartment,
Arlem-Raia, Salcete-Goa, Pincode. 403720

....Appellant

V/s

Public Information Officer (PIO),
O/o. The Executive Engineer,
Div. VI, PWD, Fatorda, Margao, Goa,
Pincode. 403602

.....Respondent

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on:27/2/2019

ORDER

1. This Commission, vide order dated 8/2/2019, while disposing the above appeal, had directed to issue Show cause to Respondent PIO 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/her for contravention of section 7(1)of RTI Act, for not complying the order passed by the F AA within time and for delaying the information.
2. In view of the said order passed by this commission, on 8/2/2019 the proceedings stood converted into penalty proceedings.
3. Accordingly show cause notice were issued to the then PIO on 13/2/2019.
4. In pursuant to the said notice PIO Shri Agnelo Barros appeared and filed his reply along with the enclosures on 27/2/2019 . The copy of the same was furnished to the appellant .

5. The PIO admitted of having received the application of the appellant dated 7/11/2018 by him on 14/11/2018 and also fairly admitted that there was a delay in furnishing him information. However it is his contention that the same was not deliberate and intentional. It is his contention that the information sought was not available in the records of his office as such he vide letter No.PWD/VI/ADM/FRTI/18-19/1687 dated 29/11/2019 sought the assistance of APIO and requested him to provide the required information by 5/12/2018 for onward submission to the appellant. It his further contention that he has also made letter to the APIO on 10/1/2019 after the order of First appellate authority directing him to urgently conveyed the work status of the road sat Arlem junction. It is his further contention that he is also overloaded with the work and pre occupied in traveling to various sites and visiting head quarters and also attending meeting with superiors besides attending various courts including Apex Court . In support of his above contention he relied upon letter dated 29/11/2019, letter dated 10/1/2019 and the details of the pending court cases pertaining to work Division VI PWD Fatorda, Margao-Goa. It his contention that due to the above reasons inadvertendely the reply could not be submitted to the appellant. It is contention that the grievance of the appellant pertaining to said road has been redressed and the said road is repaired for the satisfaction of the appellant. The Respondent PIO tendered unconditional apology for unintentional delay.
6. I have considered the records available in the file and also considered the reply of the PIO.
7. The RTI Act came into existence to provide fast relief and as such time limit is fixed under the said act to dispose application u/s 6(1) within 30 days and to dispose first appeal maximum within 45 days.

8. The Hon'ble High Court of Punjab and Haryana. In Civil Writ Petition No. 14161 of 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”.

9. 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.**”

10. In view of the ratios laid down by the above courts the PIO was duty bound to furnish the information within stipulated time as contemplated under the RTI act . The facts of the records shows that there is a delay in furnishing the information. It is seen from the records that the application of the appellant was not replied within 30 days time. The PIO is silent on the compliance of section 7(1) of RTI Act. He did not placed on record any sufficient documents showing that the application of the appellant was

responded well within 30 days time by him. Though the PIO has placed on record the letter dated 29/11/2019 there is no follow up to the said letter.

11. The first appeal was filed on 17/12/2018 and notice have been served on the PIO on 21/12/2018. The PIO during the intervention period of the first appeal has not taken any steps to furnish the information to the appellant . The order was passed by the First appellate authority on 1/1/2019 giving the directions to furnish the information within 10 days . The information came to be submitted to the appellant only on 8/2/2019 that to during the present appeal proceedings.
12. There is nothing placed on record that inaction on the part of APIO in furnishing him requisite information in time or as directed by him have been reported to the superior officers and/or any memorandum has been issued to the APIO for dereliction of his duties under RTI Act.
13. The appellant has sought the information pertaining to his complaint and as such in view of the ratio laid down by the Delhi High Court in writ petition (c)No. 5957 of 2007, Kusum Devi V/s Central Chief Information Commissioner had every right to ask for the information with regards to the complaint, action and decision taken on the same. The appellant has been made to run from pillar to post and lots of his valuable time has been lost in pursuing his application. If the PIO has the initial stage itself had provided the information to the appellant such an harassment and detriment caused to the appellant could have been avoided..
14. Though the PIO has made some efforts in securing the information, the facts remain that there is delay in furnishing information and causing hardship to the appellant. Since there is nothing on record produced by the appellant that such lapses on the part of PIO are persistent , this commission takes a lenient view and PIO is hereby directed to be vigilant henceforth while

dealing with the RTI matters and to comply the provisions of the RTI Act in true spirit.

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