

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

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Appeal No. 125/2019/SIC-I

Shri Vijaykumar A. Shirodkar,  
H.No.G/79/1,  
Goulem-Bhat,Chimbel,  
Tiswadi-Goa.  
V/s

....Appellant

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,  
Panaji Goa.

.....Respondents

**CORAM: Ms. Pratima K. Vernekar, State Information Commissioner**

Filed on: 30/04/2019  
Decided on:08/07/2019

**ORDER**

1. In exercise of right under section 6(1) of right to information Act ,2005 the appellant Shri Vijaykumar Shirodkar filed application on 7/12/2018 seeking certain information from the Respondent No.1 public information officer of Union High school, Chimbel, Tiswadi-Goa on 8 points as stated therein in the said application pertaining to the Physical Education teacher Shri Ganesh Naik working for the said school.
2. It is the contention of the appellant that his above application filed in terms of sub section (1) of section 6 was not responded by the respondent no 1 PIO within stipulated time of 30 days and as such deeming the same as rejection, the appellant filed 1<sup>st</sup> appeal on 20/2/2019 to the Respondent no 2 Deputy Director of Education, Central Educational Zone, Panajim-Goa being first appellate authority .

3. It is the contention of the appellant that the respondent no. 2 first appellate authority vide order dated 29/3/2019 allowed his appeal and directed the respondent no 1 PIO to respond to his application at the earliest .
4. It is the contention of the appellant that the respondent no. 1 PIO vide his letter dated 4/4/2019 informed him that his information is ready and to collect the same after paying the requisite fees.
5. It is the contention of the appellant in pursuant to the letters dated 4/4/2019, he authorised Mr. Meghnath Kundaikar alongwith his identify proof and authority letter to collect the information but the Respondent PIO refused to furnish the information and told him that person who seeks information needs to collect it personally. It is the contention of the appellant that he brought the said fact to the notice of the Respondent No. 2 first appellate authority vide his letter dated 9/4/2019 and the Respondent No. 2 vide his letter dated 15/4/2019 informed the appellant to approach this Goa State information commission
6. It is the contention of the appellant that in spite of the order of first appellate authority , the said information was not furnished to him by the PIO and hence he had to approach this commission in his 2<sup>nd</sup> appeal as contemplated u/s 19(3) of RTI Act thereby seeking relief of directions to PIO to furnish the information as also seeking penalty and compensation.
7. In this background the present appeal came to be filed before this commission on the grounds raised in the memo of appeal.
8. Notices were issued to both the parties. In pursuant to notice of this Commission, Appellant appeared in person. Respondent PIO was represented by Advocate Pedro Rocha. Respondent No. 2 opted to remain absent.

9. Reply filed by Respondent PIO of 20/6/2019 resisting the appeal and disputing the averments made by the appellant in memo of appeal.
10. Vide reply the PIO contended that the appellant did not visit to collect the information and also did not pay the requisite fee for such information. It was further contended that neither the appellant nor any authorised person as alleged by the appellant in para 8 of appeal had ever visited the office to collect the information. It was further contended that the letter dated 9/4/2019 is an after thought only to harass and lower the image of Respondent
11. I have scrutinised the records available in the file also considered the submission of both the parties .
12. As per the records the application u/s 6(1) of the act was filed on 7/12/2018. U/s 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. There are no records produced by the PIO that the same is adhered to. The order of the First Appellate Authority also reveals that the Respondent No.1 PIO had agreed that reply to RTI Application dated 7/12/2018 was not sent. The contention of the appellant in the appeal is that the said application was not responded to at all by the PIO thus from the undisputed and unrebutted averments, I find some truth in the contention of the appellant that the responded have not acted in the conformity with the provisions of RTI Act, 2005.
13. On bare perusal of section 7(6) of RTI Act, 2005 it could be gathered that the information seeker has to be provided information free of charge where the public authority fails to comply time limit specified in sub-section(1).
14. In present case from the undisputed facts it could be presumed

that the application of the appellant dated 7/12/2018 was not responded within the stipulated time period of 30 days as contemplated under section 7(1) of RTI Act . The PIO has offered the information only after the order of FAA wherein the appellant was directed to collect the information after depositing the requisite fees. When the information was not furnished within 30 days time, the appellant as per section 7(6) is entitled to receive the information free of cost. Hence the direction of the PIO to appellant to deposit requisite fee first is contrary to provisions of RTI Act.

15. The PIO has failed to show as to how and why the delay in responding to the application and/or not complying with the order of first appellate authority was not deliberate and /or not intentional. It is also not the case of PIO that the information has been furnished. On the contrary, the records reveal that the information is not provided to the appellant till this date
16. The PIO must introspect the non furnishing of the correct and complete information lands the citizen before the first appellate authority and also before this commission resulting into unnecessary harassment of the Common man which is socially abhorring and legally impermissible.
17. From the above gesture of PIO, I prima facie find that the entire conduct of PIO is not in consonance with the Act. Such a lapse on part of PIO is punishable u/s 20(1) and 20(2) of the RTI Act. However before imposing penalty, I find it appropriate to seek explanation from the PIO as to why penalty should not be imposed on him for the contravention of section 7(1) of the act, and for delaying the information.
18. I therefore dispose the present appeal with order as under ;

Order

Appeal allowed

- a)The Respondent No. 1 PIO is directed to furnish the information to the appellant, free of cost as sought by him vide his RTI Application dated 7/12/2018, within 20 days from the date of receipt of this order by him.
- b)Issue notice to respondent PIO to Showcause 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) ,for not complying the order of first appellate authority and for delay in furnishing the information.
- c)In case the PIO at the relevant time, to whom the present notice is issued, is transferred, the present PIO shall serve this notice along with the order to him and produce the acknowledgement before the commission on or before the next date fixed in the matter alongwith full name and present address of the then PIO.
- d)Respondent, PIO is hereby directed to remain present before this commission on 22/07/2019 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.

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