

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

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Appeal No. : 192/2019/SIC-I

Mr. Aslino Fernandes,  
H. No. 525, Boutewaddo, Assagao,  
Bardez Goa 403507

..... Appellant

v/s

1. Public Information Officer,  
Secretary of Village Panchayat of Assagao,  
Bardez-Goa.

2. The First Appellate Authority,  
Block Development Officer,  
Of Bardez, Mapusa, Bardez-Goa

....Respondents

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

Filed on: 18/06/2019

Decided on: 9/10/2019

**ORDER**

1. The second appeal came to be filed by appellant Mr. Aslino Fernandes against Respondent No.1 Public Information Officer (PIO) of the Office of Village Panchayat, Assagao , Bardez-Goa and against Respondent No.2 First Appellate Authority (FAA) Under sub-section (3) of section 19 of the Right To Information Act, 2005.
2. The brief facts leading to the present appeal are as under:-
  - (a) In exercise of right under section 6(1) of RTI Act, 2005, the Appellant filed application on 28/02/2019 seeking certain information from the Respondent No.1 Public Information Officer (PIO) mainly pertaining to his application dated 30/12/2017 made to Panchayat of Assagao for permission for repair of house bearing no. 525 at Boutawada, Assagao, Bardez-Goa which was inwards at No. 1722 dated 01/01/2018.

- (b) The appellant had sought the following information:-
- (i) Copy of sanctioning the permission.
  - (ii) If not the reason for withholding the said application for permission for repairs of House No. 525 at Boutawada, Assagao, Bardez, Goa dated 30/12/2017, Inwarded at No. 1722 dated 01/01/2018.
  - (iii) And all the correspondence made with respect to the said file.
- (c) According to the appellant his said application was not responded by the Respondent PIO herein nor the information furnished to him within stipulated time of 30 days as contemplated under section 7(1) of the RTI Act, 2005, as such considering the same as rejection, the appellant filed first appeal on 10/04/2019 before the Respondent No. 2, Block Development Officer of Bardez at Mapusa, being First Appellate Authority interms section 19(1) of RTI Act, 2005. The said first appeal was registered as BDO-I-BAR/RTI/25 of 2019.
- (d) It is contention of the appellant that during the hearing before the First Appellate Authority, the Respondent PIO filed memo on 9/05/2019 furnishing certain information and on verification of the said information it was brought to the notice of Respondent No. 2 First Appellate Authority that information furnished at point no. 2 and 3 was not completely provided by the Respondent Public Information Officer (PIO).
- (e) It is a contention of the appellant that the Respondent No. 2 FAA disposed the said appeal by an order dated 15/05/2019 by upholding the say of the Respondent No. 1 Public Information Officer (PIO).

(f) It is contention of the appellant that since no complete information was provided by Respondent No. 1 PIO inspite of the information being available with the Public Authority, as such he being aggrieved by the action of both the Respondents is forced to approach this Commission by way of 2<sup>nd</sup> appeal.

3. In this background the appellant has approached this Commission on 17/06/2019 in this second appeal with the contention that the complete information is still not provided and seeking order from this Commission to direct the PIO to furnish him the information as sought by him as also for invoking penal provisions for inaction on the part of PIO in complying with the provisions of the Act.
4. The Matter was taken up on board and was listed for hearing after intimating both the parties. In pursuant to the notice of this Commission, appellant appeared alongwith Advocate S. Azgaonkar. Respondent PIO was represented by Advocate D. Haldankar. Respondent No. 2 FAA Shri. K. S. Pangum was present alongwith Shri. Umesh Shetgaonkar.
5. Reply was filed by Respondent No. 1 and 2 respectively on 15/07/2019. An additional reply was also filed by Respondent No. 1, PIO on 16/09/2019 alongwith the enclosures. The copy of the above replies alongwith the enclosures were furnished to the Appellant.
6. During the hearing on 27/09/2019 since the Advocate for the appellant raised the grievance of not furnishing the coloured photographs, Advocate for Respondent No. 1 PIO sought time to verify the said facts and undertook to provide the same if available on the records. Accordingly the Advocate for the Respondent PIO furnished the said coloured photographs to the appellant on 4/10/2019.

7. The appellant also filed affidavit on 4/10/2019 contending that he had informed Respondent No. 2 FAA that incomplete information has been provided with respect to point No. 2 and 3, to which the counter reply was filed by the Respondent PIO on 9/10/2019.
8. Arguments were advanced by both the parties.
9. It is contention of the appellant that to in his application for request for permission to repair his house, the copy of the order was annexed to it but no copy of the said order of the Mamlatdar was furnished to him nor the coloured photographs were provided to him inspite of the said information being available with Respondent No. 1 PIO. It was further submitted that information for the first time furnished to him before the FAA and that too was incomplete and hence the Respondent PIO has acted carelessly and negligently by not furnishing correct and complete information within prescribed time. It was further submitted that Respondent No. 2 FAA in its order acted biased on the side of the Respondent No. 1 PIO. It was further submitted that the appellant has not asked to verify the correctness of the information as stated by Respondent No. 2 FAA in its order , but only sought information as to why his file is being withheld for so long. It was further contended that the Respondent vide his letter dated 23/03/2019 has submitted at point no. 2 that the matter is subjudice whereas the application was already decided by the Court of Mamlatdar and the repair is allowed by the Court. It was further submitted that due to non furnishing of the correct and complete information lots of hardship is caused and that the Respondent No.1 PIO on various occasions provided him improper information or no information at all and that he had to approach different forum in pursuing his RTI application and on that ground the appellant vehemently pressed for invoking penal provisions against Respondent PIO.

10. The Respondent PIO submitted that whatever available information in the records of Village Panchayat of Assagao in respect of the subject matter of the appellant application under the RTI Act, 2005 have been furnished to the appellant. It was further submitted that appellant nowhere stated in his application that he wanted photographs. It was further submitted that appellant after the receipt of the information before the FAA only raised grievance with respect to point no. 2 and as such issues not raised before the court of first instance cannot be basis of the appeal. It was further submitted that public authority in view of the judgement passed by the Bombay Highcourt at Goa incase of Celsa Pinto V/s Goa State Information Commission, the PIO cannot be expected to communicate to the Citizen the reasons why certain thing was done in the sense of justification but still the PIO before the First appellate Authority (FAA) had mentioned the reasons for not issuing the sanction and if the appellant is aggrieved by the decision of the Village Panchayat then the same ought to be agitated before the relevant forum and does not come within ambit and purview of RTI Act, 2005. It was further submitted that in the second appeal since the appellant raised the contention that copy of the order of Mamlatdar mentioned as annexed with application made for repairs is not furnished, the Respondent PIO had taken steps to correct the inadvertence at the relevant time itself and the certified copy of the said Mamlatdar orders were furnished alongwith the reply dated 16/09/2019.
11. I have perused the records and considered submissions of both the parties.
12. Since the available information is now been furnished to the appellant during the present proceedings, and as the appellant has made endorsement that the same is furnished as per his requirement, I find that no further intervention of this Commission is required for the purpose of furnishing information.

13. It is seen from the records that the application u/s 6(1) of the act was filed by the appellant on 28/02/2019. 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 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 Respondent No. 1 PIO have not acted in the conformity of the RTI Act, 2005.
14. From the records it reveals that the order of the Mamlatdar was not furnished during the hearings before the First Appellate Authority and the same came to be provided to the appellant only on 16/09/2019 that too during the proceeding before this Commission. Apparently there is a delay in furnishing complete and correct information.
15. The PIO also failed to show vis-a-vis any supporting documents as to how and why the delay in responding the application and/or not furnishing the complete information was not deliberate and/or not intentional.
16. The PIO must introspect the non furnishing of the correct and complete information lands the citizen before the FAA 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 PIO I find that the entire conduct of PIO is not in consonance with the act. Such an 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 been imposed on him for the contravention of section 7(1) of the act, for and for delay in furnishing the complete information.

18. I therefore dispose the present appeal with order as under ;

Order

Appeal partly allowed

- a) Since the available information is now been furnished as sought by the appellant vide his application dated 28/02/2019, no further intervention of this Commission is required for the purpose of furnishing the same.
- 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 and for delay in furnishing the complete 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 24/10/2019 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- e) Registry of this Commission to open a separate penalty proceedings against the Respondent PIO.

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