

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

Appeal No. 2/2019/SIC-I

Shri Jawaharlal T. Shetye,
H.No.35/A,W. No-11,
Khorlim Mapusa Goa.
Pincode-403 507

....Appellant

V/s

- 1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa Goa-403507
- 2) First Appellate Authority,
Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 04/01/2019
Decided on: 06/03/2019

ORDER

1. The brief facts leading to present appeal are that the appellant Shri J.T. Shetye herein by his application dated 20/8/2018 filed under section 6(1) of Right to Information Act, 2005 sought certain information on 4 points from the Public Information Officer (PIO), office of the Chief Secretary -Goa, as stated therein in the said application pertaining to his representation dated 20/6/2018 .
2. It is the contention of the appellant that his above application was transferred by the PIO of the office of Chief Secretary vide letter dated 23/8/2018 to the PIO of Directorate of Municipal Administration Panajim in terms of section 6(3) of RTI Act who intern transferred the same to the respondent No. 1 PIO of the

Mapusa Municipal council U/s 6(3) of RTI Act with a request to furnish the required information relating to the representation 20/6/2018 to the applicant directly.

3. It is the contention of the appellant that the Respondent No. 1 PIO ignored to furnish any information nor rejected the same within a stipulated period of 30 days as such deeming the same as rejection, he preferred first appeal on 8/10/2018 before the Respondent No. 2 The Chief Officer of Mapusa Municipal Council, Mapusa- Goa, interms of section 19(1) of RTI Act, 2005 being the first appellate authority and the Respondent No. 2 first appellate authority by an order dated 21/11/2018 allowed his first appeal and directed Respondent PIO to furnish the information to the appellant within a period of 15 days, free of cost.
4. It is the contention of the appellant that inspite of the said order, the said information was not furnished and as such he had to approach this commission on 4/1/2019 in this second appeal seeking relief of direction to PIO to furnish him the information as sought by him so also seeking relief of penalty and compensation for not providing information within time.
5. Notice were issued to both the parties. In pursuant to which appellant appeared in person. Respondent No. 1 PIO Shri Venkatesh Sawant appeared along with Advocate Matlock D'Souza. Respondent No.2 first appellate authority opted to remain absent.
6. During the proceedings before this commission the Respondent PIO sought time to furnish the information to the appellant and also to file appropriate reply in appeal proceedings. However the PIO failed to furnish the requisite information to the appellant neither filed any reply in the present proceedings despite of giving opportunities. As such I presumed and hold that PIO has

no any say to be offered and the averment made in the memo of appeal are not disputed.

7. It is the contention of the appellant that the respondent PIO Mr. Vyankatesh Sawant persistently and deliberately did not provided information even after legal order from his higher authority there by showing no respect to RTI Act 2005. It is the contention of the appellant that the refusal to furnish the information sought for by him within stipulated time is contrary to the provision of RTI Act 2005 and as such Respondent PIO have failed in discharge of his duties by not complying with the provisions of RTI Act, 2005. He further submitted that lots of his valuable time has been lost in pursuing his RTI application besides causing him mental agony.
8. I have scrutinized the record available in the file so also considered the submissions made by the appellant.
9. As per the records the application u/s 6(1) of the act was filed on 20/8/2018 which was transferred to respondent No.1 on 30/8/2018. 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 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 un rebutted averment, the PIO has failed to respond appellant application nor has furnished the information.
10. Section 4 (1)(d) of the RTI Act requires that the public authority to provide reasons for his administrative or quashi Judicial decision to the effected person.
11. The Hon'ble Delhi High Court in writ petition (c)No. 5957/2007; Kusum Devi V/s Central Information Commission has held that;

“The petitioner certainly has right to ask for “Information” with regards to complaints made by him, action taken and the decision taken thereafter”

12. Since the representation dated 20/06/2018 has been filed by the appellant herein he had every right to know the status of this complaint/representation and proceedings conducted therein. As such by applying the above ratio I am of the opinion that the appellant herein is entitled for the information as sought by him vide his application dated 20/8/2018.
13. It is seen from the record that the order dated 21/11/2018 was not complied by the Respondent PIO. On perusing the proceedings sheet of first appeal No. 102/2018 it is seen that during the proceedings the PIO /APIO of Mapusa Municipality was present and the Respondent No.2 first appellate authority had passed the order in the presence of the parties. As such the Respondent no.1 PIO was aware of the order passed and the direction issued to him for furnishing the information within 15 days . The PIO has not produced on record any documents showing that the order of the respondent No. 2 FAA was complied by them and also failed to show as to how and why the delay in responding the application and/or not complying the order of first appellate authority was not deliberate and/or not intentional. It appears that he is not interested in contrasting the present proceedings.
14. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act or has no respect to obey the order passed by the senior officer. Such a conduct of PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-vis the intent of the Act.

15. From the above gesture of PIO, I find that the entire conduct of PIO is not in consonance with the act. I find prima facie some substance in the argument of the appellant that the PIO purposely and malafidely refused access to the information. 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 be imposed on him for the contravention of section 7(1) of the act, for non compliance of order of first appellate authority and for delaying the information.

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

Order

Appeal allowed

- a) The Respondent No. 1 PIO is directed to comply with the order passed by the First appellate authority dated 21/11/2018 and to provide the information to the appellant as sought by him vide his RTI Application dated 20/8/2018, within 15 days from the date of receipt of this order by him.
- b) Issue notice to respondent No. 1 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 22/03/2019 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him .

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.