

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

Appeal No. 200/2019/SIC-I

Mr. Heraclio Fernandes
House No. 293/4,
3rd ward, Colva Salcete Goa.
V/s

....Appellant

1) The Public Information Officer,
Office of the Village Panchayat,
Colva-Vanelim-Gandaulim-Sernabatim,
Colva Salcete-Goa .

.....Respondents

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

Filed on: 25/6/2019

Decided on: 16/10/2019

ORDER

1. The second appeal came to be filed by the appellant Mr. Heraclio Fernandes on 22/6/2019 against the Respondent Public Information Officer of the Office of Village Panchayat Colva-Vanelim under sub section (3) of section 19 of RTI Act 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 2/2/2019 had sought for the following information vis-a-vis (i) the complaints of the illegal construction received from 01/01/2017 till date under Panchayat Jurisdiction alongwith showcause notices and (ii) respective demolition orders if any issued
3. The said information was sought by the appellant in exercise of his right u/s 6(1) of RTI Act, 2005.
4. 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, he filed 1st appeal to Block Development officer at Margao-Goa on 11/03/2019 being first appellate authority interms of section 19(1) of RTI Act, 2005 .

5. It is the contention of the appellant that the first appellate authority vide order dated 9/4/2019 allowed his appeal and directed the respondent PIO to furnish the information to the appellant within 10 days.
6. It is the contention of the appellant that in spite of the said order of the first appellate authority, the said information was not furnished to him and as such he being aggrieved by such conduct of respondent PIO is forced to approach this commission in his 2nd appeal as contemplated u/s 19(3) of RTI Act,2005 thereby seeking relief of directions to PIO to furnish the information as also seeking penalty.
7. Notices were issued to both the parties. Appellant was present alongwith Advocate M. Mascarenhas. Respondent PIO Mrs. Sharada Velgekar was present during some of the hearing and had sought time to file reply and to furnish information. .
8. Opportunity was granted to respondent PIO to file her say to appeal proceedings and to substantiate her case, despite of same the PIO failed to file her reply as such this commission presumes and holds that the respondent PIO has no say to be offered and the averments made by the appellant are not disputed by him.
9. The Advocate for the appellant submitted that the appellant had sought the said information in a larger public interest and that the respondent PIO is not serious in complying the provisions of RTI Act. It was further contended that the PIO does not respond under section 7 of RTI Act and also does not bother to comply with the order of first appellate authority and in most of the cases the records speaks for itself that the PIO is habituated in adopting such tactics. It was further contended that lots of hardship caused to the appellant in pursuing his RTI Application.
10. On perusing the application filed under the RTI Act dated 02/2/2019, it is seen that the appellant has sought for the

information which is in public domain. The Respondent PIO have also not claimed that the same is exempted from disclosures as provided u/s 8 of RTI Act, 2005. It appears that appellant has sought the said information in a larger public interest and as such he is entitled to receive the same.

11. As per the records the application u/s 6(1) of the act was filed on 2/2/2019. The same was received in the office of Respondent PIO on the same day. Under section 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 unrebutted averments, I find some truth in the contention of the appellant that the responded have not acted in the conformity with the provisions RTI act 2005.
12. It also appears that the order dated 9/4/2019 of first appellate authority was not complied by the Respondent PIO. The order of first appellate authority reveals that the Respondent did not bothered to file reply. The same is also in the present case. The PIO failed to appeared and 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.
13. 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.
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 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, for non compliance of order of first appellate authority and for delay in furnishing the information.
16. I therefore dispose the present appeal with order as under ;

Order

Appeal allowed

- a) The Respondent PIO is directed to comply with the order passed by the First appellate authority dated 9/4/2019 and to provide the information to the appellant as sought by him vide his RTI Application dated 2/2/2019, within 20 days free of cost 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 1/11/2019 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