

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

Appeal No. 268/2018/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.

- 2) First Appellate Authority,
The Chief Officer (Mr. Clen Madeira),
Mapusa Municipal Council,
Mapusa-Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 14/11/2018

Decided on: 14/02/2019

ORDER

1. The second appeal came to be filed by the appellant Shri Jawaharlal T. Shetye on 14/11/2018 against the Respondent No.1 Public Information Officer of Mapusa Municipal Council, Mapusa, Bardez-Goa and against Respondent no. 2 first appellate authority 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 6/7/2018 had sought for certain information on 5 points as stated therein in the said application from the Respondent no 1. The said information sought in exercise of his right u/s 6(1) of RTI Act, 2005.
3. 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 1st appeal to Respondent no 2 on 08/08/2018.

4. It is the contention of the appellant that the respondent no. 2 FAA vide order dated 17/10/2018 allowed his appeal and directed the respondent no 1 PIO to issue the information to the appellant, free of cost within 7 days as per the original application dated 6/7/2018.
5. It is the contention of the appellant that inspite of the said order, the said information was not furnished and hence the appellant has approached this commission in his 2nd appeal seeking relief of directions to PIO to furnish the information as also seeking penalty and compensation for not giving information within time.
6. Notices were issued to both the parties. Appellant appeared in person Respondent PIO Mr. Vyankatesh Sawant appeared alongwith Advocate M.D'Souza and filed his replies on 14/12/2018 and on 2/1/2019 alongwith the enclosures. Respondent no.2 First appellate authority opted to remain absent. The copy of the both the replies filed by Respondent PIO were furnished to appellant.
7. The appellant on going through the reply dated 14/12/2018 and the documents enclosed to the said reply submitted that he had not received the information till date and the letter dated 26/10/2018 enclosed to the reply was not been received by him. He further submitted that vide letter dated 26/10/2018 also the Respondent PIO had not provided information as sought by him vide his application dated 6/7/2018 pertaining to the Mapusa Peoples Union Representation dated 15/6/2018.
8. The PIO undertook to verify the records once again and then to furnish correct and complete information to the appellant. Accordingly additional reply alongwith the enclosures was filed by Respondent PIO on 2/1/2019 and copy of the said reply alongwith the enclosures was furnished to the appellant. The copy of the letter dated 20/12/2018 addressed to the appellant herein by the PIO was enclosed to the said reply providing him point wise information on 4 points. Copy of the transfer application dated 20/12/2018 made interms of section 6(3) to the PIO of personnel Department

by the Respondent was also enclosed wherein the point no. 5 was transferred to the concerned PIO with a request to furnish the information.

9. On going through the application filed interms of section 6 of RTI Act vis-a-vis the information furnished by letter dated 20/12/2018, it is found that no clear information was provided at point No. 2, by the PIO. Hence this commission directed PIO to verify their records once again and to furnish complete and correct information to the appellant.
10. Accordingly the clarification and the documents with respect to point No. 2 was submitted to the appellant by the PIO on 14/2/2019. Since the available information on the records of public authority have now been provided to the appellant, I find no intervention of this commission is required for the purpose of furnishing information hence prayer –I becomes infructuous .
11. Now with regards to other prayers, it is seen that as per the records the application dated 6/7/2018 was filed and received by the office of respondent no 1 on 9/7/2018. U/s 7(1) of the Act the PIO is required to respond the same within 7 days from the said date. The Respondent PIO have not placed on records and documentary evidence of having adhere to section 7 of RTI Act. Though the PIO have claimed that the order of First appellate authority was complied and had issued the information vide letter dated 26/10/2018, it was encumbedent on him to place on record the mode and the manner in which the same was submitted to the appellant. The said was required considering the submissions of the appellant that he did not received the same. The information which according to PIO was provided by letter dated 26/10/2018 is also not in accordance with the information as sought by appellant vide his application dated 6/7/2018. The correct information at point No. 1 to 4 came to be furnished to the appellant by the PIO only during the present proceedings vide letter dated 20/12/2018. The transfer application made in terms of section

6(3) of RTI Act by the PIO dated 20/12/2018 was not made within 5 days from the receipt of the RTI Application by the PIO. There is an delay in furnishing information and also delay in transferring the application to the other public authority. Such an conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-viz the intent of the act.

12. Considering the conduct of PIO and his indifferent approach to the entire issue, I find prima facie some substance in the argument of the appellant that the PIO purposely and malafidely refused to access to the information and that the PIO has provided him incomplete and incorrect information. Such allegation if proved would call for disciplinary proceedings and imposition of penalty against him. 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 contravention of section 7(1) of the Act, for non-compliance of order of FAA and for delaying the information.
13. I therefore dispose the present appeal with order as under:

ORDER

1. Appeal partly allowed.
2. Since information is being provided during the present proceedings, I find no intervention of this Commission is required for the purpose of furnishing information.
3. Issue showcause 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 for contravention of section 7(1) of RTI Act and for delaying furnishing the information.
4. 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 acknowledgment before this Commission on or before the next

date fixed in the matter alongwith full name and present address of the then PIO.

5. The respondent PIO is hereby directed to remain present before this commission on 1/3/2019 at 10.30 am. alongwith written submissions showing cause why penalty should not be imposed on him.
6. Appeal proceedings disposed and closed accordingly. The registry of this commission is directed to open separate penalty proceedings.

Notify the parties.

Pronounced in the open court.

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.

Sd/-
(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa