

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

Appeal 299/2018/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-403507

2) First Appellate Authority,
Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 11/12/2018

Decided on: 11/01/2019

ORDER

1. The brief facts leading to present appeal are that the appellant Shri J.T. Shetye herein by his application dated 8/8/2018 filed under section 6(1) of Right to Information Act, 2005 sought certain information on 8 points from the Respondent No. 1 Public Information Officer (PIO), office of the Mapusa Municipal Council, Mapusa-Goa, as stated therein in the said application.
2. It is the contention of the appellant that , he preferred first appeal on 24/09/2018 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 24/10/2018 allowed his first appeal and directed Respondent PIO to furnish the information to the appellant within a period of 10 days free of cost and the head clerk was directed to ensure that the RTI applications are disposed off on time in order to avoid making PIO a scapegoat of account of her slackness in duties .

3. 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 11/12/2018 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.
4. Notice were issued to both the parties. In pursuant to which appellant was present in person. Respondent No. 1 PIO Shri Vyankatesh Sawant appeared and filed his reply on 2/1/2019 along with the enclosures. . Respondent No.2 first appellate authority opted to remain absent.
5. Copy of the reply of PIO alongwith the enclosures was furnished to the appellant and the appellant was directed to verify the information furnished to him along with the said reply and the matter was fixed for argument Respondent No. 1 PIO remained absent when the mater was fixed fo argument hence argument of the appellant were heard .
6. The appellant submitted that he visited the office of the PIO (Tax section) and met Mr. Nilesh Lingudkar LDC on 10/1/2019 as requested by the PIO vide his letter dated 1/1/2019, however the said Nilesh Lingudkar avoided to give him the inspection on flimsy grounds by stating that the register are in the record room. He further submits that information at point no. 8 has not by received by him and the contention of the PIO that he had furnished him on several occasion is an blatant lie and the same is not supported by PIO with any documents. He further submitted that he never received the letter dated 7/9/2018 providing him information at point no. 4,6,7 and 8 respectively
7. 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. He further submitted that the information came to be furnished to him only during the present proceedings and there is a delay in furnishing the said information to him.

8. Respondent PIO vide his reply contended that the application of the appellant dated 8/8/2018 was received by their office on 8/8/2018 which was inwards in entry NO. 12924 .
9. Vide reply it was further contended by Respondent PIO that the information sought by the appellant was voluminous pertaining to three individual sections. It is his contention that information at point 1 to 4 was pertaining to taxation section, information at serial No. 5 was pertaining to account section and information at point NO. 6 to 8 was pertaining to Administrative section .
10. It was further contended that Respondent PIO that information at serial No. 5 is issued by letter NO, ACCTS/RTI/5750/2018 Dated 16/8/2018 and for serial no. 4,6,7 and 8 was issued by letter No. MMC/Admn/6235/2018 dated 7/9/2018 and the same was collected by the appellant.
11. It was further contended that on the direction of the first appellate authority the information at serial No. 1 to 3 was furnished to the appellant by forwarding letter dated 1/1/2019.
12. In support of above contention the Respondent has relied upon the relevant letters as stated by him in his reply.
13. It was further contended by the PIO that there was no refusal of available information and the same has been furnished to the appellant. It was also submitted that the difficulties faced by him were genuine in collecting the information and there was no intention to cause any hardship or inconvenience to the appellant and on that ground he sought for leniency.
14. I have scrutinized the record available in the file so also considered the submissions made by the appellant.

15. It is admitted by PIO that RTI application was filed by the appellant on 8/8/18 which was received in the office of Respondent No. 1 on 8/8/2018. There is no dispute that the Information at point no. 5 is provided on 16//8/2018. Though the PIO has relied upon letter dated 7/9/2018 of having furnished the information on point no. 4,6,7 and 8 to the appellant, no records/ documents have been produced by the PIO of having posted the same to the appellant and having received by the appellant . The information at point no. 1, 2, and 3 was not provided within the stipulated time of 30 day. Hence it is seen as per the records produced by the PIO himself, no complete information is provide to the appellant within 30 days time.
16. The order of the first appellate authority dated 24/10/2018 reveals that the Respondent PIO was present at the time of passing of the order by the first appellate authority wherein the directions where given to the PIO to furnished the information to the appellant within the period of 10 days. As such the PIO was duty bound to comply the directions of his superiors and to require to provide information within 10 days. It is seen that the order was passed on 24/10/18 as such the PIO should provide information on 4/11/2018. There is nothing on record produced by PIO that he order of First appellate authority was complied by him within time.
17. On account of absence of Respondent PIO, no clarification could be obtained from him in respect of the allegation of the appellant that till date the inspection of documents at point no. 3 is not given to him nor the information at point No 8 has been furnished to him.
18. Primafacie the records shows that no complete information on all points were provided by the Respondent PIO to the appellant within stipulated time of 30 days and only the part of the information was provided to the appellant. It appears from the records that the order of the First appellate authority was not complied as directed by the First Appellate Authority .

19. Public authority must be introspect that non furnishing of the correct or incomplete information lands the citizen before FAA and also before this commission resulting into unnecessary harassment of a common man which is socially abhorring and legally impermissible.
20. 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 access to the information. Such allegation is if proved would call for disciplinary proceedings and imposition of penalty against PIO. However before imposing penalty I find appropriate to seek explanation from the PIO as to why penalty should be imposed on him/her for providing incomplete information and for not compliance of order of First appellate authority .
21. I therefore dispose the present appeal with order as under:

ORDER

1. Appeal allowed.
2. The Respondent PIO is hereby directed to provide the inspection of the concerned file as sought by appellant at point no. 3 and the information as sought by the appellant at point NO. 8 vide his application dated 8/8/2018
3. Issue showcause notice to respondent PIO to showcause as to why no action has contemplated u/s 20(1) and/or 20(2) of the RTI Act, 2005 should not be imitated against him/her for not complying the order passed by the First appellate authority within time and for delaying in furnishing complete information.
4. In case the PIO at the relevant time, to whom the present notice is transferred, the present PIO shall serve this notice alongwith 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 23/1/2019 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 Co Commission,
Panaji-Goa