

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

Appeal No. 32/2019/SIC-I

Mrs Nicladina A.Fernandes e Mello.
H.No. 1309, Villa Dina,
Damon-East,Raia,Salcete-Goa.

....Appellant

V/s

- 1) The Public Information Officer,
Office of the Mamlatdar of Salcete,
Margao-Goa.
- 2) First Appellate Authority,
Deputy Collector and SDO,
Salcete,Margao-Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on:12/02/2019

Decided on:25/03/2019

ORDER

1. The brief facts leading to present appeal are that the appellant Mrs Nicladina A Fernandes e Mello herein by her application dated 11/9/2018 sought certain information on 10 points as stated therein in the application from the Respondent No.1 Public Information Officer (PIO), of the office of Mamlatdar of Salcete-Goa pertaining to Memorandum under No. SDO/SAL/Illeg-conv/7340/2017/3896 ,dated 9/6/17 issued by the office of Deputy collector and sub-divisional officer ,Margao under subject " Landslide due to excessive hill cutting to make plot in survey No. 215/1 of village Raia,taluka Salcete Goa "The said information was sought in exercise of Appellant's right under section 6(1) of RTI Act .
2. It is the contention of the appellant that her 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 First appellate authority on 26/10/2018 in terms of section 19 (1) of RTI Act .

3. It is the contention of the appellant that the Respondent no. 2 FAA vide order dated 29/11/2018 allowed her appeal and directed the respondent no 1 PIO to issue the information to the appellant, free of cost within 10 days from the date of order as per the original application dated 11/9/2018.
4. It is the contention of the appellant that despite of she visiting the office of PIO on several times before and after 10 days period , no information came to be provided to her inspite of the said order from FAA, as such she being aggrieved by the action of respondent PIO is forced to approach this commission on 12/02/2019 in her 2nd appeal as contemplated u/s 19(3) of RTI Act .
5. In this back ground, the appellant has approached this commission seeking relief of directions to PIO to furnish her the complete information as sought by her in above application as also awarding cost for not giving information within time.
6. Notices were issued to both the parties. Appellant appeared in person. Respondent PIO was represented by Smt sharad Naik who placed on record Authority letter cum reply dated 11/3/19 to the appeal proceedings. Respondent No.2 First appellate authority was represented by Shri Abhishek Naik. The copy of the reply along with the enclosures filed by Respondent PIO was furnished to appellant. The Respondent PIO had also enclosed the copy of his letter dated 8/03/2019 addressed to Appellant furnishing point wise information to appellant .
7. Appellant agreed of having received the information. However it is her grievance that incomplete information has been provided to her two days prior to the date of hearing i.e. on 11/3/2019. It is her contention that information at point no. 1,8 and 10 have not been

correctly provided and information at point no. 2 and 9 provided to her are not legible copies. She further submitted that though the Respondent PIO submitted that the information pertaining to 3,4,5, and 6 have been transferred to TCP Department, Margao, no copy of the said intimation have been received by her. The representative of the Respondent PIO undertook to furnish once again the complete information to appellant and accordingly on 25/3/2019 the representative of Respondent PIO Mrs. Sharad Naik submitted that she has carried the complete information and the documents to be submitted to the appellant. However the same could not be furnished to the appellant on account of her absence.

8. With regards to other prayers, it is seen that as per the records the application dated 11/9/2018 was filed and received by the office of Respondent no 1 PIO on 11/9/2018 vide inward No. 27501 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 too. The order of the first appellate authority has directed PIO to issue the information within 10 days. As such the PIO was duty bound to comply the direction of his superior officer and was required to provide the information within 10 days. It is seen that the order was passed on 29/11/2018 as such the PIO was required to furnish the information on or before 10/12/2018. There is nothing on record produced by the PIO that the order of the first appellate authority was complied by him within time. On perusal of the order of first appellate authority dated 29/11/2018 it reveals that the respondent No.2 first appellate authority has also observed that PIO failed to comply the provisions of subsection (1) of section 7 of RTI Act and hence issued directions to PIO to furnish information within 10 days. The information came to be provided only on 8/3/2019 and clarification thereto on 25/3/2019 only after the present second appeal has been filed. The PIO is silent in his reply and no reasons are mentioned by him showing sufficient cause

why he could not furnish the information within the 10 days from the date of the passing the order of first appellate authority till 8/3/2019. Hence this commission prima facie comes to the conclusion that there was delay in furnishing the information.

9. The appellant herein has been made to run from pillar to post and lots of her valuable time has been lost in pursuing the said application. Such a conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant visa viz the intent of the act.
10. 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 proved would call for disciplinary proceedings and imposition of penalty against PIO. However before imposing penalty I find the appropriate to seek explanation from the PIO as to why penalty should be not imposed on him/her for contravention of section 7(1)of the Act, for non compliance of order of first appellate authority and for delaying the information.
11. In the above given circumstances I find ends of justice will meet with order as under:

ORDER

1. Appeal allowed.
2. The Respondent no.1 PIO is hereby directed to furnish full and complete information at point No. 1,2,7 to 10 and the legible copies of the same to the appellant as sought by her vide her application dated 11/9/2018. The PIO is also hereby directed the furnish her the copies of the transfer application transferring the points at serial No. 3,4,5 and 6 of her application to TCP Department u/s 6(3) of RTI Act.

3. Issue show cause notice to Respondent PIO to show cause 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) of RTI act, for not complying the order passed by the first appellate authority within time and for delaying in furnishing the 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 along with full name and present address of the then PIO.
5. The respondent PIO is hereby directed to remain present before this commission on 8/4/2019 at 10.30 a.m. along with written submissions showing cause why penalty should not be imposed on him.
6. Appeal proceedings deposed 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