

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

Appeal No. 140/2019/SIC-I

Shri. Yeshwant Mahale,
H.No. 29-B/3, Jamkhale,
Unity Village,
Karaswade, Mapusa-Goa.
V/s

....Appellant

1) The Public Information Officer,
Administrator of Comunidade,
North Zone,
Mapusa Goa.

2) First Appellate Authority,
Additional Collector –II,
North Zone, Panaji Goa.

.....Respondents

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

Filed on: 14/5/2019
Decided on: 18/6/2019

ORDER

1. The second appeal came to be filed by the appellant Shri Yeshwant Mahale on 14/5/2019 against the Respondent No.1 Public Information Officer of Administrator of Comunidade, North Zone, at , 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 31/12/2018 had sought for the information on 2 points as listed therein pertaining to representation/application dated 30/10/2017 made by him to the Administrator of Comunidade, North Zone, Mapusa, Bardez-Goa with a caption "*request to allot land*". The said information was sought by the appellant in exercise of his right u/s 6(1) of RTI Act, 2005. The appellant also enclosed the photocopy of his representation dated 30/10/2017 to his RTI application.

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 Additional Collector II ,North Zone , at Panajim Goa on 19/02/2019 being first appellate authority .
4. It is the contention of the appellant that the respondent no. 2 first appellate authority vide order dated 1/4/2019 allowed his appeal and directed the respondent no 1 PIO to furnish the information as sought by the appellant vide application dated 31/12/2018 free of cost within 20 days .
5. It is the contention of the appellant that in spite of the said order, the said information was not furnished and hence he had to approach this commission in his 2nd appeal on 14/5/2019 seeking relief of directions to PIO to furnish the information as also seeking penalty.
6. Notices were issued to both the parties. Appellant appeared in person. Respondent PIO was absent despite of due service of notice. Mrs Cibila Menezes appeared on behalf of Respondent no.2 First appellate authority and filed the reply of first appellate authority on 10/6/2019 .
7. Opportunity was granted to respondent PIO to file his say to appeal proceedings and to substantiate his case, despite of same the PIO failed to file his reply. As such this commission presumes and holds that the respondent on 1 PIO has no say to be offered and the averments made by the appellant are not disputed by him.
8. I have scrutinised the records available in the file.
9. 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.

10. 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".
11. On perusing the application of the appellant filed in terms of section 6 of RTI Act, one could gather that the appellant was intending to have certified copy of the file notings /remark made on his application dated 30/10/2017. In other words the appellant was intending to know the action taken report/status/progress report made on his application representation dated 30/10/2017 by the office of Administrators of Comunidade, North Zone, at Mapusa.
12. In view of the ratio laid down by The Hon'ble High Court of Delhi in case of Kusum Devi (supra), the appellant had every right to know the status of his representation and proceedings conducted therein. As such by applying the above ratio I am of the opinion that the appellant herein is entitle for the information as sought by him vide his application dated 31/12/2018.
13. Vide memo of appeal, the appellant has contended that he had sought the said information for the further legal purpose and that the respondent nO.1 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 him pursuing his RTI Application.
14. As per the records the application u/s 6(1) of the act was filed on 31/12/2018. 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 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.

15. It appears that the order dated 1/4/2019 of first appellate authority was not complied by the Respondent PIO. The order of first appellate authority reveals that the Respondent did not appear before him despite of due service of notice and did not bothered to file reply. The same is also in the present case. Despite of the due service of notice and direction of this Commission to be present before this Commission, 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.
16. 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.
17. 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 transferacy and accountability appears to be suspicious and adamant vis-a-vis the intend of the Act.
18. From the above gesture PIO I prima facie find that the entire conduct of PIO is not in consonance with the act. 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 been imposed on him for the contravention of section 7(1) of the act, for not compliance of order of first appellate authority and for delaying the information.

19. 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 1/4/2019 and to provide the information to the appellant as sought by him vide his RTI Application dated 31/12/2018, within 20 days 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 3/7/2019 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