

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

CORAM: Shri Juino De Souza: State Information Commissioner

Compliant No: 13/2019/SIC-II

Shri. Nitin Y. Patekar,
Oshal Bag, Dhargal,
P.O. Colvale – Goa.

..... Complainant

v/s

1. Public Information Officer,
Mamlatdar of Pernem,
Pernem - Goa.
2. First Appellate Authority ,
O/o Dy. Collector of Pernem,
Pernem - Goa. 403 512

..... Opponents

Relevant emerging dates:

Date of Hearing : 24-07-2019

Date of Decision : 24-07-2019

ORDER

1. **Brief facts** of the case are that the Complainant has filed a Complaint case with the Commission registered on 25/02/2019 being aggrieved that the PIO has furnished incorrect and misleading information at point no. 3 & 6 and has prayed to allow the Complaint and issue directions to the PIO to furnish correct information and to impose penalty u/s 20 RTI Act and for such reliefs.
2. **HEARING:** During hearing Complainant Shri Nitin Y. Patekar, is present in person. The Respondent PIO and FAA are both represented by Shri Damodar V. Morajkar, UDC with the Public Authority.
3. **SUBMISSION:** The Complainant submits that he had filed an RTI Application dated 23/11/2018 with the PIO, Mamlatdar of Pernem and did not received any reply within stipulated 30 days period, as such he filed a First Appeal on 24/12/2018, but has not received any written order of the First Appellate Authority (FAA) although he attended the hearing where the FAA had passed an oral order directing the PIO to furnish the information free of cost on 11/02/2019 and pursuant to the said Order, the PIO has not furnished correct information.

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4. The Complainant further submits that he is satisfied with the information received at points no. 1, 2, 4, & 5 and his only remaining grievance is regarding information furnished at point no. 3 & 6 which is incorrect and misleading. The Complainant clarifies that at point no.3, he has asked as to who has paid the postal charges for issuing notices by registered post in connection with mutation No. 27663 and to which PIO has answered that same does not come under the purview of RTI Act. The Complainant further submits that at point no.6 he had asked for acknowledgement copy (copy of AD Card) of mutation no. JM-1/PER/Mut/27663/ Dhargal/2018 and what has been furnished to him are copies of form IX and X comprising of 3 pages.
5. Shri Damodar V. Morajkar for the PIO states that a timely reply dated 21/12/2018 was sent by the PIO and which fact is concealed by the Complainant. It is also submitted that the FAA had passed an order dated 11/02/2019. Shri Damodar V. Morajkar produces a copy of a reply filed by the PIO and also reply by the FAA which is take on record. One copy is served on the Complainant.
6. **FINDINGS:** The Commission after hearing the submissions of Complainant and scrutinizing the material on record finds that the Complainant is satisfied with information furnished at point no. 1, 2, 4 & 5 and the only remaining grievance is regarding information at point no. 3 & 6. With regards to the reply of the PIO on point no.3, the Commission finds that the PIO has correctly replied by stating 'Answering questions does not come under the purview of RTI Act 2005' It is true that asking information in question form does not fall under section 2(f) of the RTI act 2005.

Section 2(f) in The Right To Information Act, 2005.

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

7. The Honorable High Court of Bombay at Goa in W.P no 419/2007 has held that an RTI applicant cannot ask 'why' and cannot claim an answer. In decision of Goa State Information Commission in Appeal no.87/SCIC/2009 dated 14/1/2010 it has been held that no one can claim answers for questions like whether , why, what, how etc.
8. The Commission further finds that with respect to information at point no.6, although the Complainant had asked for copy of AD card of mutation no. JM-1/PER/Mut/27663/ Dhargal/2018, the PIO in good faith furnished him copies of form IX and X comprising of 3 pages more so as there was no clarity in RTI Application and the PIO assumed that the Complainant is seeking the contents of the envelope posted in regard to the notice of the said mutation. Thus the PIO is entitled for protection for the action taken in good faith as per section 21 of the RTI act 2005. Consequently the relief sought against PIO u/s 20 (1) for imposing penalty stands rejected.
9. **DECISION:** The Commission directs the PIO to verify from the records whether any Acknowledgement Card was received from the Post Office in connection with the notices of mutation no. JM-1/PER/Mut/27663/ Dhargal/2018 dispatched by Registered AD and if available, a copy of the same is to be furnished to the Complainant free of cost within 15 days of the receipt of this order. If the said copy is not traceable, then the PIO should also inform the Complainant accordingly. The PIO will file a compliance report before the commission confirming the facts.

With these directions, the Complaint case is disposed.

All proceedings in Complaint case stands closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner