

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

CORAM: Shri Juino De Souza: State Information Commissioner

Compliant No: 14/2019/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. 1 & 3 and has prayed to allow the Complaint and issue directions to the PIO to furnish correct information and for penalty u/s 20 RTI Act and for other 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.
3. **SUBMISSION:** The Complainant submits that he had filed an RTI Application dated 20/11/2018 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.

...2

4. The Complainant also submits that he is satisfied with the information received at point no. 2 but whereas information at point no. 1 & 3 furnished by the PIO is incorrect. The Complainant submits that at point no.1 and point no.3 he had sought the entire record of mutation No. 27060 & No.27199 except sale deed copies and PIO has furnished copies of form X at point no.1 and form IX & X at point no.3.
5. Shri Damodar V. Morajkar for the PIO states that a 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 parties and scrutinizing the material on record finds that the PIO as per 7(1) had informed the complainant vide letter No. MAM/PER/RTI/507/2018/2737 dated 21/12/2018 to pay amount of Rs. 360/- @ Rs. 45/- per page and collect 8 pages, however the Complainant instead of paying filed a First Appeal and First Appellate Authority (FAA) directed the PIO to furnish information free of cost.
7. The Commission also finds that pursuant to the direction of the FAA, the PIO has furnished information at all three points, however the Complainant had sought in point no. 1 & 3, entire records of mutation file No. 27060 & No.27199 and which according to him has not been furnished. The Complainant also has grievance of higher rates being charged for certified copies @ Rs.45/- per page and as per RTI it should be Rs.2/- per page.
8. The representative for the PIO explains that a circular was issued by the Department prescribing higher fees for documents under RTI of Rs. 45 /- per page for certified copies as per the Goa Right to Information (Regulation of Fee and cost) Rules 2006.

9. **DECISION:** As the Complainant has sought information of the entire records of mutation file nos. 27060 and No.27199 and whereas in good faith the PIO furnished copies of form X at point no.1 and form IX & X at point no.3, the Commission accordingly directs the Complainant to one again approach the office of the PIO within 15 days of the receipt of the order and take inspection of the both mutation files nos. 27060 and No.27199, if he so desires.
10. It is open to the Complainant, thereafter, to take whatever copies of information documents he so requires on payment of cost. The PIO is directed to calculate the cost by charging Rs.2/- per A4 size page for xerox copy. If the Complainant wants certified copies, then a higher fee of Rs.5/- per page will be charged.
11. There is no doubt that higher fees can be charged as per the rule 4 and due to which the concerned Department had issued a circular notifying the higher fee of Rs.45/- per page, however the Commission directs that the said circular will not apply in the present case as the amount charged per page seems exorbitant. The PIO to file a compliance report before the commission confirming the facts.

With these directions the Complaint case is disposed.

Consequently the relief sought against PIO u/s 20 (1) of RTI Act 2005 for imposing penalty stands rejected.

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.

(Juino De Souza)
State Information Commissioner

1. **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.

...3

3

2. 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.

3. 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.
4. **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**