

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

Penalty No. 02/2019
In
Appeal No. 287/2018/SIC-I

Shri Norman Dias,
R/o H.No. 86/A, Igreja ward
P.O. Carmona, Salcete Goa.

.....Appellant

V/s

1) The Public Information Officer,
Office of Mamlatdar of Salcete,
Collectorate of South Goa,
Margao Goa.403601

2) First Appellate Authority,
Deputy Collector Cum SDO, Salcete,
Collectorate of South Goa,
Margao Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 04/02/2019

ORDER

1. This Commission, vide order dated 8/1/2019, while disposing the above appeal, had directed to issue Show cause to Respondent PIO 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 of first appellate authority within time and for delay in furnishing the information.
2. In view of the said order passed by this commission, on 8/1/2019 the proceedings stood converted into penalty proceedings.
3. The show cause notice were issued to the then PIO on 14/1/2019. In pursuant to the show cause notice Shri Joao Fernandes appeared and filed his reply on 04/02/2019 to show cause notice. The copy of the same was furnished to appellant herein. PIO submitted to consider his said reply as his arguments.

4. I have considered the records available in the file and also considered the submission made by the Respondent PIO.
5. The PIO admitted of having received the application on 4/7/2018 from the appellant filed under RTI Act. Though it is contention of the PIO that information pertaining to Mutation file no. 56333 was provided to the appellant within a time frame and subsequently informed orally the mutation file No. 54814 will be made available to the appellant no sooner the same would be traced from Talathis office, however no any supporting documents to that effect have been produced on record by the PIO. Further the respondent PIO at para three of his reply admits of having furnished the information to the appellant on 8/1/2019 pertained to file no. 56333. Thus the averment made at para 2 and 3 of the reply of PIO contradicts each other and not in conformity. More so over the reply dated 8/01/2019 filed before this commission submitting the information to the appellant reveals that the information pertaining to mutation file No. 54814 and 56333 have been furnished to the appellant on 8/1/2019 that too during the present Appeal proceedings before this commission. It is contention of the respondent PIO that even after relentless searching of the file the same could not be traced and hence the order of first appellate authority remained to be complied, however there was nothing placed on records by PIO informing or bringing to notice the said fact to the appellant or the first appellate authority.
6. It was further submitted that non compliance of section 7(1) of the RTI Act and the order passed by the first appellate authority was not deliberate and intentional and due to the reasons mentioned above.
7. The Hon'ble Gujarat High Court in special civil Application No.8376 of 2010 case of Umesh M. Patel V/s State of Gujarat has held at relevant para 8 and 9 .

“Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty.”

8. Yet in another case the Hon’ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission while maintaining the order of commission of imposing penalty on PIO has held;

“Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.”

9. The Hon’ble Bombay High Court Goa bench in writ petition No.304/2011 Johnson V. Fernandes V/s Goa State information commission; AIR 2012 Bombay 56 has observed, at para 6

“Nothing prevented the petitioner for furnishing the information to Respondent de-hors the appeal. In fact, if the petition is intended to furnish the information to Respondent (information seeker) he could have communicated it without waiting for Respondent No. 2 (appellant) to file an appeal.”

10. The RTI Act came to existence to provide fact relief and as such time limit is fixed under the said act to dispose application u/s 6(1) within 30 days and to dispose first appeal maximum within 45 days .
11. The facts of the records shows that there is a delay in furnishing the information. It is seen from the records that the application of the appellant was not replied within 30 days time nor the order of the first appellate authority was complied by the Respondent PIO. The appellant herein have been made to run from pillar to post in pursuing her RTI Application. If correct and timely information provide to the appellant it would have saved valuable time and hardship caused to the appellant, such harassment & Detriment caused to appellant could have been avoided.
12. Public authority must introspect that non furnishing of the correct or incomplete information lands the citizens before First Appellate authority and also before this commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.
13. In the above given circumstances and in view of the ratios laid down by above courts, the reason mentioned by the PIO in his reply are not convincing as the same are not supported with cogent and sufficient evidence, and as such the same cannot be taken as a gospel truth. Hence I find this is a fit case for imposing penalty on PIO. However as there is nothing on record that lapses of part of PIO are persistent and considering this as a first lapse , a lenient view is hereby by taken in the present proceedings and hence the following order is passed.

ORDER

The Respondent then PIO Shri Joao Fernandes is hereby directed to pay a sum of Rs. 2000/-as penalty for a contravention of 7(1) of RTI Act, for not complying the order of first appellate

authority and for delay in furnishing the information and the penalty amount shall be credited to the Government Treasury at South- Goa.

With the above directions the above penalty proceedings stands closed.

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