GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Penalty No. 43/2018
In
Appeal No. 127/2018 /SIC-I

Shri Peter Paul D'Souza,
R/o H.No.63-2,
Mainath Bhatti Vaddo,
Arpora, Bardez –Goa. ….Appellant

V/s

1) The Public Information Officer,
The Secretary, Village Panchayat.
of Arpora-nagova, Bardez Goa.

2) First Appellate Authority,
The Block Development Officer-II,
Government Complex, Mapusa,
Bardez-Goa. …..Respondents

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

Decided on: 07/02/2019

O R D E R

1. This Commission, vide order dated 26/9/2018, 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 furnishing incorrect and misleading information.

2. In view of the said order passed by this commission, on 26/9/2018 the proceedings stood converted into penalty proceedings.

3. Accordingly show cause notice were issued to the then PIO on 1/10/2018. Then PIO Shri Rui Cardozo was represented by Advocate Parishit Sawant who filed reply of respondent PIO on 8/1/2019 to show cause notice.

4. Argument were also advanced by both the parties.

5. Appellant submitted that there is a delay of 58 days in providing him correct information and he vehemently pressed for penal provision.

6. The PIO admitted of having received the application of the appellant on 12/2/2018 filed under RTI Act and having furnished the information on 11/5/2018 to the appellant in compliance of the order of First appellate authority dated 23/4/2018. It was further contended that he vide additional reply dated 29/6/2018 offered clarification on the query of the appellant. It was further contended that the appellant had filed two distinct and different separate applications both dated 12/2/2018 and the same were different from each other. It was further submitted that the office of the Respondent PIO does not maintain any information based upon road access but maintains the same vis-a-vis the name of the occupant and house number. It was further contended that he is standing by the reply dated 11/5/2018 given to the application dated 12/2/2018 of the appellant.

7. I have considered the records available in the file and also considered the submission made by the both the parties.

8. 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.

9. 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. The PIO is silent on the compliance of section 7(1) of RTI Act. He did not placed on record any sufficient documents showing that the application of the appellant was responded well within 30 days time by him and has also failed to show sufficient cause why he could not respond the said application within 30 days time.

10. The information which was provided to the appellant vide forwarding letter dated 11/5/2018 in compliance to the order of first appellate authority was verified by this Commission vis-à-vis the application dated 12/2/2018. The appellant at point No.1 had sought for the information pertaining to constructions license issued to him and his family members on the road starting from survey No. 85/6 up to survey No. 81/1-A of Arpora Village. The respondent PIO have not specifically provided information pertaining to survey No. 85//6 up to survey No. 81/1-A which was sought by the appellant vide his RTI application. The rectified copy of the information came to be furnished to the appellant only during the present proceedings vide additional reply dated 26/9/2018 wherein it was informed that no construction licence have been issued on the road as mentioned in the affidavit 19/7/2018.

11. 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, and 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. 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."

14. 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."

15. In the High Court of Punjab and Haryana. In Civil Writ Petition No. 14161 of 2009 Shaheed Kanshi Ram Memorial… V/s State Information Commission has held;

> " As per provisions of the Act**, Public Information Officer is supposed to supply correct information, that too, in a time bound manner.** Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference".

16. In my opinion the reply dated 8/1/2019 given by the PIO to Showcause notice does not appears to be convincing as the same is not supported by any cogent evidence.

17. In the above given circumstances and in view of the ratios laid down by above courts, I find this is a fit case for imposing penalty on PIO. However as there is nothing placed on record by the appellant 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

1. The Respondent then PIO Rui Cardozo is hereby directed to pay a sum of Rs. 3000/- (Three Thousand only)as penalty for a contravention of 7(1) of RTI Act, and for delay in furnishing correct information . The penalty amount shall be credited to the Government Treasury at North- Goa.
2. Copy of the order shall be sent to Director of Account, North for information and for necessary action.

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