

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

Penalty 39/2019
In
Appeal No. 197/2019/SIC-I

Shri Ramnath G. Shirodkar,
House No. 1303, Kumar Vaddo,
Anjuna, Bardez, Goa.

....Appellant

V/s

1) The Public Information Officer (PIO),
The Secretary, Village Panchayat of Calangute,
Calangute, Bardez Goa .

2) First Appellate Authority (FAA),
Block Development Officer II,
Mapusa Goa .

.....Respondents

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

Decided on: 05/12/2019

ORDER

1. The penalty proceedings have been initiated against the Respondent under section 20(1) and or 20(2) of RTI Act, 2005 for the contravention of section 7(1) of Right To Information Act, 2005, for not complying the order of First appellate authority (FAA) and delay in furnishing the information.
2. The full details of the case are mentioned in the main order dated 17/09/2019. However, the facts are reiterated in brief in order to appreciate the matter in its proper prospective.
3. A request was made by the appellant on 18/12/2018 for information on 2 points and had sought for the copies of the documents as listed therein in the said application. As no information was given nor any reply was sent to appellant within a statutory period of 30 day hence the first appeal was filed by the appellant on 30/1/2019 and the FAA vide order dated 28/2/2019 directed the Respondent PIO to furnish the

information to the appellant within 10 days, from the date of the order in respect of RTI application, free of cost.

4. The appellant made the grievance stating that the respondent PIO did not provide him the information with malafide intention even though directed by the First appellate authority (FAA). And therefore filed the second appeal with this Commission in terms of section 19(3) of RTI Act, 2005. After hearing both the parties, the Commission vide order dated 17/09/2019 while disposing the Appeal No. 197/2019 came to the prima-facie finding that there was delay in furnishing information and that the respondent PIO did not act diligently while disposing off the request for information under the RTI Act and hence directed to issue showcause notice to the respondent PIO.
5. In view of the said order dated 17/09/2019 the proceedings stood converted into penalty proceeding.
6. Accordingly showcause notice was issued to PIO on 27/9/2019. In pursuant to showcause notice PIO, Shri Raghuvir Bagkar appeared along with Advocate kapil kerkar and filed his say on 05/12/2019.
7. The Respondent, Public Information Officer (PIO) admitted in his reply that he was officiating as PIO when the application was filed by the appellant herein on 18/12/2018 and when the order was passed by the FAA on 28/2/2019 directing him to furnish complete information within 10 days free of cost. He also fairly admits that the application was not responded by him within stipulated time of 30 days as contemplated under RTI Act, 2005 and there was delay in furnishing information on his part . However it is his contention that it was not deliberate and intentional and was on account of bonafide mistake.
8. The said reply is not supported by any documentary evidence neither assigned any specific reasons for the delay in furnishing

information. The records reveals that the application is filed on 18/12/2018 and the information offered on 13/5/2019 which was collected by the appellant on 12/6/2019. On perusal of the said information which was furnished to the appellant in compliance to the order of First appellate authority on 13/5/2019, it is seen that the information at point No.1 was not furnished at all and hence the directions were given by this commission to respondent PIO to furnish the information at point No. 1 .

9. There is delay of approximately about 5 months in furnishing complete information.

10. The Hon'ble 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".

11. 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.”

12. 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 that Penalty can be imposed if First Appellate Authority order not complied. The relevant para 8 and 9 is reproduced herein.

“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.”

13. Hence according to the ratios laid down in the above judgment the PIO has to provide correct information in a time bound manner as contemplated under the RTI Act. In the present case the PIO has repeatedly failed to provide the information within time frame. Such a conduct and attitude of Respondent PIO appears to be suspicious vis-à-vis the intent of the RTI Act and is not in conformity with the provisions of the RTI Act.
14. The PIO must introspect that non furnishing of the correct or incomplete information lands the citizen before first appellate authority and also before this Commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.

15. If the correct and timely information was provided to appellant it would have saved valuable time and hardship caused to the appellant herein in pursuing the said appeal before the different authorities. It is quite obvious that appellant has suffered lots of harassment and mental torture in seeking the information under the RTI Act which is denied to him till date. If the PIO has given prompt and correct information such harassment and detriment could have been avoided.
16. Considering the above conduct, I find that PIO has without reasonable cause repeatedly and persistently has failed to furnish information within time. Thus I am convinced and is of the opinion that this is fit case for imposing penalty on PIO. Hence the following order.

ORDER

- i. The Respondent No. 1 PIO Shri Raghuvir Bagkar shall pay a amount of Rs.2000/- (Two thousand) as penalty for contravention of section 7(1), for not complying the order of First appellate authority within stipulated time and for delaying in furnishing the information.
- ii. Aforesaid total amount payable as penalty shall be deducted from the salary of PIO and the penalty amount shall be credited to the Government treasury at North Goa.
- iii. Copy of this order should be sent to the Director, Directorate of Panchayat, at Panajim and Director of accounts, North-Goa, Panajim for information and implementation.

With the above directions 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