

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

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**Appeal No.: 11 /2020/SIC-I**

Mr. Antonio Jose de Souza.  
R/o 1/133-A.Gauravaddo,  
Calangute, Bardez-Goa.

.....Appellant

V/s

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

2. The First Appellate Authority,  
The Block Development Officer,  
Mapusa , Bardez-Goa.

.....Respondents

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

Filed on:12/12/2019

Decided on: 04/03/2020

**ORDER**

1. The second appeal came to be filed by Appellant Mr. Antonio Jose D'Souza against Respondent No.1 Public Information Officer (PIO) of the Office of Village Panchayat Calangute, Bardez-Goa and against Respondent No.2 First Appellate Authority (FAA) Under sub-section (3) of section 19 of the Right To Information Act, 2005.
2. The brief facts leading to the present appeal are as under:-
  - (a) In exercise of right under section 6(1) of RTI Act, 2005 the Appellant filed application on 2/8/2019 seeking certain information from the Respondent No.1 Public Information Officer (PIO) on several points as listed therein at points (1) to (3) in the said application mainly pertaining to "Bellagio Residenza" consisting of 45 Multi family dwelling units situated in survey NO. 120/9-A of Calangute Village.

- (b) It is the contention of the Appellant that his said application was responded on 29/8/2019 by the Respondent PIO interms of section 7(1) of RTI Act wherein his request was rejected on the pretext that the information sought by him is voluminous in nature and same will further disproportionately divert the resources of the public authority and also will be detrimental with the safety and preservation of the public records. However he was informed that he can be permitted to inspect the said information on any working days and accordingly to seek specific information
- (c) It is contention of the Appellant that thus he being aggrieved by such denial preferred First Appeal on 13/9/2019 before the Respondent No.2, Block Development Officer- II Mapusa , Bardez-Goa being First Appellate Authority interms of section 19(1) of RTI Act, 2005. The said first appeal was registered as BDO-I-BAR/RTI/45 of 2019.
- (d) It is the contention of the Appellant that the Respondent No. 2 first appellate authority acted in partisan manner and dismissed his first appeal by exceeding more than 45 days as per clause 19(6) of RTI Act, 2005 as such he being aggrieved by the action of both the Respondents is forced to approach this Commission by way of 2<sup>nd</sup> appeal as contemplated u/s 19(3) of RTI Act
3. In this background the Appellant has approached this Commission on 12/12/2019 in this second appeal with the grounds raised in the memo of appeal and with the contention that the information is still not provided and seeking order from this Commission to direct the PIO to take steps as may be necessary to provide the information as sought by him in his

application dated 2/8/2019 as also for invoking penal provisions for inaction on the part of both the Respondents in complying with the provisions of the Act and also for delay in providing information sought.

4. The Matter was taken up on board and was listed for hearing after intimating both the parties. In pursuant to the notice of this Commission, Appellant was present during only one hearing and thereafter opted to remain absent. Respondent PIO Shri Raghuvir Bagkar appeared alongwith Advocate Kapil Kerkar. Respondent No.2 first appellate authority was represented by Shri Umesh Shetgaonkar.
5. In the course of the hearing before this commission, the Respondent PIO showed his willingness to furnish the information to the Appellant and requested Appellant to inspect the documents first and then to identify the document required by him. Such an arrangement was agreed by the Appellant and the date for inspection was supposed to be mutually fixed by both the parties.
6. No reply came to be filed by both the Respondents despite of giving them opportunities. Hence I presume and hold that they have no say to be offered and the averments made by the Appellant in the memo of appeal are not disputed by them.
7. Since the Appellant as well as both the Respondents remained absent thereafter, this commission could not seek any clarification from either of the party whether the inspection was carried by the Appellant and/or whether any information was furnished to the Appellant, as such this commission had no any option then to decide the matter based on the records available in the file.
8. On scrutiny of the records it is seen that the reply of Respondent PIO dated 29/08/2019 given in the terms of section

7(1) of RTI Act, appears to be given in very causal manner. Vide said reply information has been denied on one of the ground that information sought is voluminous in nature and it would divert the resources of public authority .

9. The Hon'ble High Court for the State of Punjab and Haryana at Chandigarh in W.P. No. 18694 of 2011.[O & M] ; Dalbir Singh V/S Chief Information Commissioner Haryana & others has held as under;

“There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner”.

10. Assuming for a while that information sought by the Appellant is voluminous in nature. However in view of the ratio laid down by the Hon'ble High Court of Punjab in Dalbir Singh case (Supra), the PIO could have sought extension of time to supply the information.

11. In the contest of section 7(9) of RTI Act, The Hon'ble High Court of Kerela in Writ Petition No.6532 of 2006, Treesa Irish V/s The Central Public Information officer and others has observed and held

“In fact there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately divert the resources of the public authority”.

12. In view of the ratio laid down by the above Hon'ble courts the out rightly rejection/ denial of information by the Respondent PIO to the Appellant was not in accordance with law.
13. On perusal of the reply dated 29/8/2019 given in terms of section 7 (1) of RTI Act one could gathered that inspection of the said information was offered to the Appellant by the PIO . Hence it could be safely presumed that the said information is available and it is existing in the records of the public authority concerned herein.
14. The PIO must introspect the non furnishing of the correct and complete information lands the citizen before the FAA and also before this Commission resulting into unnecessary harassment of the Common man which is socially abhorring and legally impermissible.
15. The records also reveals that the first appeal was dismissed by Respondent No. 2 First Appellate Authority for default of appearance on the part of the Appellant.
16. Rule 7 (2) of the Goa State Information Commission (Appeal Procedure) Rules, 2006 give discretion to the Appellant to remain present in person or through his authorised representatives or also gives him liberty to opt not to be present during the hearings of the appeal or complaints .
17. The Respondent No. 2 First Appellate Authority ought to have decided the first appeal filed before him on merits. There is no provision under RTI Act which permits to dismiss the proceedings for non appearance of the parties .
18. Before parting it need to mention that section 4 of the Act casts an obligation on all public authorities to maintain records duly computerised and connect through network. Said provision also requires public authorities to publish certain information in the

prescribed format and update the same periodically. If Such and exercise is undertaken by the Respondent authority herein, then such disseminated information would be beyond the purview of the Act. It is noted that inspite of the said obligation on the Respondent authority and direction of this commission from time to time , the Respondent authority has failed to comply with said requirement, thereby compelling not only Appellant but citizens at large to have the information in physical form by filing applications.

19. The Hon'ble High Court of Bombay at Goa Bench in PLI writ petition No. 42 of 2019; Roshan Mathias V/s Village Panchayat of Candolim had directed the public authority i.e the Village Panchayat Candolim to comply its obligation interms of section 4(1) (b) of the RTI Act as expeditiously as possible within a period of 6 months.
20. The observation made by the Hon'ble High Court and the ratios laid down in the case of Roshan Mathias (Supra) are also applicable to the public authority concerned herein.
21. In the facts and circumstances of the above case and in view of the discussion above, I find that ends of justice will meet with following directions. I therefore dispose the present appeal with order as under ;

#### Order

Appeal partly allowed

- a)The Respondent No.1 PIO is hereby directed to provide correct and complete information to the Appellant as sought by him vide his application dated 2/8/2019, free of cost within 15 days from the date of the receipt of the order .
- b) The public authority concerned herein i.e the Village Panchayat of Calangute, Bardez-Goa is hereby directed to

comply with section 4 of RTI Act,2005 within 6 months in case the same is not complied.

With the above directions proceedings stands closed.

Pronounced in the open court. 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.

Sd/-

**(Ms.Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa