

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

Appeal No.: 330/2019/SIC-I/

Shri Ramakant V. Chimulkar
R/o H. No.485/5, Dabhol Waddo,
Chapora, Anjuna, Bardez-Goa.

.....Appellant

V/s

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

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

.....Respondents

CORAM:

Ms. Pratima K. Vernekar, State Information Commissioner

Filed on: 25/11/2019

Decided on:30/01/2020

ORDER

1. The second appeal came to be filed by appellant Shri Ramakant V. Chimulkar against Respondent No.1 Public Information Officer (PIO) of the Office of Village Panchayat, Anjuna -Caisua, 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 27/05/2019 seeking certain information from the Respondent No.1 Public Information Officer (PIO) on several points as listed therein at points (1) to (9) in the said application including inspection mainly in respect to Assessment and Demand and Collection Register and all the details pertaining to form 7 and 8 in respect of House No.485/5 of Village Panchayat Anjuna- Caisua.

- (b) According to the appellant his said application was responded by the Respondent PIO herein on 22/06/2019 thereby informing him that the information sought by him is voluminous in nature from the period 1st January 1994 to 31st December 1994 and hence he was requested to do inspection of the records and to ask specific information.
- (c) It is the contention of the appellant that in pursuant to the said letter as he had difficulty to read and understand document in English language as such he approached PIO alongwith Shri Surendra S. Govekar, Panchayat ward member to carry out the inspection of the said documents/records. However, respondent PIO refused to allow inspection of the document to his authorised person. Thus he being aggrieved by such denial preferred first appeal on 28/06/2019 before the Respondent No. 2, Block Development Officer of 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/44 of 2019.
- (d) It is the contention of the appellant that after hearing both the parties, the Respondent No. 2 first appellate authority disposed the said appeal by an order dated 27/09/2019. By this order the Respondent No. 2, First appellate authority (FAA) allowed the said appeal and directed Respondent No.1 PIO to allow for inspection of files/documents to the appellant alongwith his authorised representative within 15 days, from the date of the order and then to furnish the available information free of cost to the appellant within a period of 7 working days from the date of identifying the document by the appellant.
- (e) It is contention of the appellant that Respondent No.1, PIO did not comply the order of Respondent No. 2, FAA and also did not furnish him the inspection nor the information within

15 days of the receipt of the order as such he being aggrieved by the action of PIO, is forced to approach this Commission by way of 2nd appeal as contemplated u/s 19(3) of RTI Act

3. In this background the appellant has approached this Commission on 25/11/2019 in this second appeal 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 secure compliance of the order passed by the Respondent No. 2 FAA as also for invoking penal provisions for inaction on the part of PIO in complying with the provisions of the act and also for compensation 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 appeared in person alongwith Shri Surendra Govekar. Respondent PIO Shri Darmendra Govekar was present alongwith Advocate Kapil Kerkar. Respondent No.2 first appellate authority opted to remain absent.
5. In the course of the hearing before this commission the respondent PIO requested appellant to inspect the documents first and then to identify the document required by him. Such an arrangement was agreed by the appellant. Accordingly, after inspection was carried out by the appellant, the information alongwith the documents/enclosures were furnished to the appellant 23/01/2020. After verifying the said information, appellant acknowledged the same on the memo of appeal.
6. No reply came to be filed by respondent No.1 PIO despite of giving him opportunities. Hence I presume and hold that the PIO has no say to be offered and the averments made by the appellant in the memo of appeal are not disputed by him.
7. It was submitted by appellant that the PIO have not furnished him

the requisite information intentionally and deliberately as he is trying to shield the irregular and illegal acts of the said Panchayat which he is trying to bring to light. It was further contended that the PIO did not adhere to the direction given by the FAA vide order dated 27/09/2019.

8. It was further submitted that it is mandatory on the part of each public authority to maintain all its records pertaining to its operational needs and thus the respondent has failed in discharging his duty towards the public at large.
9. He further submitted that he is knocking the doors of different authorities to get the said information which was sought by him with specific purpose in order to redress his grievances before appropriate forum
10. It was further submitted that lots of valuable time and energy have been lost in pursuing the application and on the above grounds he prayed for invoking penal provisions against Respondent PIO.
11. I have perused the records available in the file and considered submissions of the parties.
12. Since the available information is now being furnished to the appellant during the present proceedings as per the requirement of the appellant, I find that no further intervention of this Commission is required for the purpose of furnishing information. And hence relief sought at points No. I and II become infructuous.
13. On perusal of the records, more particularly the judgment and order of the Respondent No.2 dated 27/9/2019, it is seen that the order was passed after hearing both the parties as such the respondent PIO was well aware of the direction issued to him by Respondent No.2. It appears that the order dated 27/09/2019 of first appellate authority was not complied by the Respondent PIO.

The PIO failed to show as to how and why the delay in complying the order of first appellate authority was not deliberate and /or not intentional.

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. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act or has no respect to obey the order passed by the senior officer. Such a conduct of PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-vis the intent of the Act.
16. From the above gesture PIO I find that the entire conduct of PIO is not in consonance with the act. Such an lapse on part of PIO is punishable u/s 20(1) and 20(2) of the RTI Act. However before imposing penalty, I find it appropriate to seek explanation from the PIO as to why penalty should not been imposed on him for non compliance of order of first appellate authority and for delay in furnishing the information.
17. I therefore dispose the present appeal with order as under ;

Order

Appeal partly allowed

a) Since the available information is now been furnished as sought by the appellant vide his application dated 27/05/2019, no further intervention of this Commission is required for the purpose of furnishing the same.

b) Issue notice to respondent PIO to showcause 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 not complying the order of first appellate authority and for delay in furnishing the information.

- c) In case the PIO at the relevant time, to whom the present notice is issued, is transferred, the present PIO shall serve this notice along with the order to him and produce the acknowledgement before the commission on or before the next date fixed in the matter alongwith full name and present address of the then PIO.
- d) Respondent, PIO is hereby directed to remain present before this commission on 17/2/2020 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- e) Registry of this Commission to open a separate penalty proceedings against the Respondent PIO.

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