

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

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**Appeal No.: 331/2019/SIC-I**

Mr. Surendra S. Govekar  
R/o H.No.678/5,Soratto Waddo,  
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: 11/02/2020

**ORDER**

1. The brief facts leading to present appeal are that the appellant Shri Surendra Govekar herein by his application dated 06/07/2019 filed under section 6(1) of Right to Information Act,2005 sought certain information on 9 points as stated therein including inspection of the records from the Respondent No.1 Public Information Officer (PIO), office of the Village Panchayat of Anjuna, Caisua-Goa in respect of accounts of Panchayat funds maintained in General Ledger-Abstract Register form No. 01, cash book form No. 03, Annual Audit reports and compliance report with attached documents submitted to Audit Officer by Village Panchayat Anjuna- Caisua pertaining to period from 1/4/2017 to 6/7/2019
2. It is the contention of the appellant that his said application was responded on 01/08/2019 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 to the safety and preservation of the public records.

3. It is contention of the appellant that thus he is aggrieved by such denial, preferred first appeal on 9/8/2019 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/56 of 2019.
4. 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 9/10/2019. By this order the Respondent No. 2, First appellate authority(FAA) allowed the said appeal and directed Respondent No.1 PIO to provide the complete information and to allow the inspection of files/documents with reference to the application dated 6/7/2019 of the appellant within 15 days free of cost from the date of the order.
5. It is contention of the appellant that Respondent No.1, PIO did not comply the order of Respondent No. 2, first appellate authority 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 2<sup>nd</sup> appeal as contemplated u/s 19(3) of RTI Act
6. In this background the appellant has approached this Commission on 25/11/2019 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 secure

compliance of the order passed by the Respondent No. 2 first appellate authority 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.

7. 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 Advocate Atish Mandrekar. Respondent PIO Shri Darmendra Govekar was present alongwith Advocate Kapil Kerkar. Respondent No.2 first appellate authority was represented by Shri Umesh Shetgoankar.
8. Reply filed on behalf of respondent no. 1 PIO by his Advocate on 14/1/2020 and the copy of the same was furnished to the appellant
9. During 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 mutually fixed by both the parties on 15/1/2020.
10. The appellant also placed on record the Xerox copy of the letter dated 20/1/2020 addressed to Respondent PIO by him which was inwards with the Village Panchayat Anjuna on 20/1/2020 vide entry no. 4884 of having carried the inspection and identifying the documents and submitted that till date no information came to be submitted to him .
11. It is contention of the 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 adhered to the direction given by the first

appellate authority vide order dated 9/10/2019 and thus by his act by denying the information even after order of first appellate authority amounts to breach of mandate of RTI Act,2005 and also contempt of the order of respondent no. 2.

12. 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.
13. He further submitted that he is knocking the doors of different authorities to get the said information which was sought by him with a larger public interest in order to expose the illegality committed by the said public authority.
14. It was further submitted that access to the information u/s 3 of the Act is a rule and exemption u/s 8 of RTI Act is the exception. He further submitted that lots of valuable time and energy have been lost in pursuing the application. He further submitted the denial of the information on the ground that it being voluminous in nature is not tenable in law. On the above grounds he vehemently pressed for invoking penal provisions interms of section 20(2) of RTI Act against Respondent PIO.
15. The PIO vide his reply dated 14/1/2020 contended that the PIO has given full inspection of the file to the appellant and accordingly had disposed off the RTI application filed by the appellant and therefore the present appeal is complete abuse of process of the RTI Act. It was further submitted that appellant is not entitled in multiple information in one RTI application filed under RTI Act as held in the case decided by the CIC in Rajendra Singh V/s CBI in appeal No. CIC/WB/A/ 2007/00967. It was further submitted that the information sought for by the appellant apart from being voluminous, the same will further disproportionately divert the resources of the Village Panchayat of

Anjuna Caisua. So also detrimental to the safety and preservation of Public records. It was also contended that the appellant failed to inspect file and accordingly apply for the copies as required. But choose to file the present appeal only to harass the public information officer.

16. I have perused the records available in the file and considered submissions of the parties.
17. On perusal of the reply of Respondent PIO dated 01/08/2019 given in the terms of section 7(1) of RTI Act, it appears that the same is 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 .
18. The Act envisages dispensation of information to show transferecy in functioning of the public authority and as such it has been held by the various Hon'ble courts that dispensation of the information is a rule whereas withholding as exception
19. 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".
20. 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.

21. Further on perusing the RTI application of the appellant dated 6/7/2019, the appellant had sought for inspection of records at item no. 9. The same could have been very well offered by the Respondent PIO at the initial stage itself which was denied by the Respondent.
22. 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".
23. In view of the ratio laid down by the above Hon'ble courts the outright rejection/ denial of information by the Respondent PIO to the appellant was not in accordance with law.
24. On perusal of the records, more particularly the judgment and order of the Respondent No.2 dated 9/10/2019, 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. The Respondent No.1 PIO is silent on the compliance of the order of first appellate authority. It appears that the order dated 9/10/2019 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.
25. The contention of the respondent as stated at para 4 and at para 5 of the reply dated 14/1/2020 filed by the Respondent PIO

are contrary to each other. The respondent PIO has also not placed on record any documentary evidence in support of his averments made at para 4. The inspection has been offered only during the present proceedings .

26. The information was sought on 6/7/2019 by the appellant and despite of giving undertaking to furnish the same, no information till date have been furnished to the appellant.
27. The PIO must introspect the non furnishing of the correct and complete information lands the citizen before the first appellate authority and also before this Commission resulting into unnecessary harassment of the Common man which is socially abhorring and legally impermissible.
28. 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.
29. 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.
30. 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.

31. 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.
32. 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.
33. 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 allowed .

- a) The Respondent no. 1 PIO is hereby directed to furnish the information to the appellant as sought by him vide his Application dated 6/7/2019 inwarded vide entry No. 1276 dated 6/7/2019, free of cost within 15 days from the date of the order.
- b) The public authority concerned herein i.e the Village Panchayat of Anjuna-Caisua, Bardez-Goa is hereby directed



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

- c) 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.
- d) 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.
- e) Respondent, PIO is hereby directed to remain present before this commission on 25/2/2020 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- f) Appeal Proceedings stands closed. 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