

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

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**Appeal No.: 332/2019/SIC-I/**

Mr. Surendra S. Govekar  
R/o H.No.678/5,Soratto Waddo,  
Anjuna Bardez0Goa.

.....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: 31/01/2020

**ORDER**

1. The second appeal came to be filed by appellant Mr. Surendra Govekar 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 2/7/2019 seeking certain information from the Respondent No.1 Public Information Officer (PIO) on several points as listed therein at points (1) to (21) in the said application including inspection of the records mainly pertaining to works of extension of Street line with lights and shifting of electricity line in Panchayat

jurisdiction by Anjuna- Caisua Panchayat through Panchayat funds, regarding opening of sealed Tenders mentioned under Agenda pertaining to special meeting notice bearing reference No. VP/ANJ-CAI/2019-20/871 dated 22/06/2019. The photocopy of special meeting notice dated 22/6/2019 was also enclosed to the said RTI application by the appellant for ready reference of the Respondent PIO .

- (b) It is the contention of the appellant that his said application was responded on 22/06/2019 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.
- (c) It is contention of the appellant that thus he being aggrieved by such denial preferred first appeal on 2/8/2019 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/51 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 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 allow for inspection of files/documents to the appellant within 15 days from the date of the order and then to furnish the available information free of cost within 10 working days from the date of identifying the documents by 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 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 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 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 Advocate Atish Mandrekar. 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 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 21/1/2020.
  6. The appellant also placed on record the Xerox copy of the letter dated 21/1/2020 addressed to Respondent PIO by him which was inwards with the Village Panchayat Anjuna on 21/1/2020 vide

entry no. 4910 of having carried the inspection and identifying the documents and submitted that till date no information came to be submitted to him .

7. During the hearing before this commission on 31/2/2020 Advocate J. Lohar appeared on behalf of respondent PIO and furnished the information alongwith the documents to the appellant which was verified and acknowledged by the appellant on the memo of appeal.
8. 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. Hence the arguments of the appellant were heard.
9. 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 adhered to the direction given by the FAA 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 .
10. 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.
11. 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.

12. 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 and in support of his contention he relied upon the judgment of Hon'ble High Court Of Kerala in writ petition (c) No. 6532 of 2006, Treesa Irish V/s The Central Information officer and on the above grounds he vehemently pressed for invoking penal provisions interms of section 20(2) of RTI Act against Respondent PIO.
13. I have perused the records available in the file and considered submissions of the parties.
14. On perusal of the reply of Respondent PIO dated 30/7/2019 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 .
15. 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".

16. 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.
17. Further on perusing the RTI application of the appellant dated 2/7/2019, the appellant had sought for inspection of records at item no. 21. The same could have been very well offered by the Respondent PIO at the initial stage itself which was denied by the Respondent.
18. 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".
19. 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.
20. 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. 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.

21. The information was sought on 2/7/2019 by the appellant and the same is furnished to the appellant on 31/1/2020 during the present proceedings . There is delay in furnishing the information.
22. 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.
23. 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.
24. 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.
25. 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.

26. 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.
27. 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.
28. 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) Since the available information is now been furnished as sought by the appellant vide his application dated 2/7/2019, no further intervention of this Commission is required for the purpose of furnishing the same and prayer I & II becomes infructuous .
- 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 17/2/2020 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- f) 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

