

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

**Appeal No. 346/2019/SIC-I**

Mr. Royson E. Da Costa,  
r/o H.No. 343, Costa Vaddo,  
Majorda-Goa.

....Appellant

V/s

- 1) The Public Information Officer,  
Vilalge Panchayat of Majorda-Utorda-Calata,  
Majorda-Goa.
- 2) First Appellate Authority/BDO,  
Office of the BDO-Mormugao,  
Vasco da Gama-Goa.

.....Respondents

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

Filed on: 9/12/2019

Decided on: 19/02/2020

**ORDER**

1. The second appeal came to be filed by appellant Shri Royson E. Da Costa against Respondent No.1 Public Information Officer (PIO) of the Office of Village Panchayat, –Majorda Utorda Calata, Majorda-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 16/08/2019 seeking certain information from the Respondent No.1 Public Information Officer (PIO) on several points as listed therein at points (1) to (11) in the said application .
  - (b) According to the appellant his said application was responded by the Respondent PIO herein on 11/09/2019. However he was not satisfied with the said reply as

according to him replies given at other points except point No. 1 were vague and there was no clarity. Hence, he vide his letter dated 20/9/2019 which was in continuation to his application dated 16/8/2019 furnished the clarification to the respondent No. 1 PIO pertaining to point no. 2,4,5,7,8,9,and 10.

- (c) It is contention of the appellant that on 20/9/2019 respondent No.1 PIO issued him a letter in which the replies were again vague and there was no clarity to the information applied for by him as such he being aggrieved by such a response of the Respondent no. 1 PIO, preferred first appeal on 26/09/2019 before the Respondent No. 2, Block Development Officer of Mormugao taluka at Vasco-da-Gama, being First Appellate Authority interms of section 19(1) of RTI Act, 2005.
- (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 bearing No. 7/BDO/MOR/2019-20 by an order dated 29/10/2019. By this order the Respondent No. 2, First appellate authority (FAA) allowed the said appeal and directed Respondent No.1 PIO to issue necessary letter to the appellant mentioning all the details within 3 days as per section 7(3)(a) of RTI Act,2005 from the date of the order and further to provide information sought by the appellant as per the application dated 16/8/2019 within 10 days .
- (e) It is contention of the appellant that in pursuant to the order of respondent no.2 FAA , the respondent no. 1 PIO furnished him a reply vide letter dated 30/10/2019 which was received by him 5/11/2019 requesting him to deposit

an amount Rs. 5263/- and to collect the information after 2 days from the payment of fees. As such it is contention of the appellant that the said was beyond the time and in default of order passed by respondent no.2 FAA.

(f) It is contention of the appellant that he visited the office of Respondent No.1 on 7/11/2019 to collect the information however no information was furnished to him.

(g) 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 information 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 6/12/2019 in this second appeal on the grounds raised in the memo of appeal with the contention that the information is still not provided and seeking order from this Commission to direct the PIO to provide him information as sought by him vide his application dated 16/8/2019, free of cost at the earliest , for inquiry as also for invoking penal provisions for inaction on the part of PIO in not complying with the provisions of the Act.
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 . Respondent PIO Shri Custodio Faria was present . Respondent No.2 first appellate authority was represented by Shri Pradip Tamankar .
5. Respective Replies were filed by both the respondents on 23/1/2020 alongwith supporting documents vehemently

resisting the appeal. The copies of the replies of the respondents were furnished to the appellant herein.

6. Arguments were advanced by appellant. Both the Respondents submitted to consider their replies as their arguments.
7. It is the contention of the appellant that Respondent no. 1 has failed to perform his statutory duty under the RTI Act by not issuing the necessary certified copies of documents /information asked by him vide his application dated 16/8/2019 despite of said information are public documents and are maintained and available by Respondent No. 1 PIO and it amounts to total violation of order dated 29/10/2019 passed by the Respondent no. 2 FAA. It was further submitted that the respondent NO. 1 have deliberately not provided information as the same may be used against the Respondent No.1 or such other person as may be necessary to expose of the illegalities committed by the Respondent PIO. He further submitted that the same are required by him to be produced before concerned Authorities. It was further submitted that the Respondent No. 1 PIO has not complied the order of Respondent no. 2 First appellate authority within stipulated time of 3 days as directed by first appellate authority as he received the letter dated 30/10/2019 only on 5/11/2019 and on the said ground he sought for providing him information free of cost.
8. The respondent no. 1 PIO submitted that his predecessor has replied on 11/9/2019 interms of section 7(1) of RTI Act and also vide letter dated 20/9/2019 offered the information on payment of fees of Rs. 5263/-.
9. It was further submitted that in pursuant /compliance to the order of FAA the respondent No. 1 prepared letter dated 30/10/2019 giving the calculation of the fees towards the Xerox

charges and thereby requesting him to deposit an amount 5264 /- and then to collect the information within 2 days. It was further contended that the village panchayat peon had visited the appellants house on 30/10/2019 at 5.15 PM in order to serve the said letter but the family members of appellant refused to accept the said reply and hence the said reply was send to the appellant by Registered A.D. on 31/10/2019 .It was further submitted that the respondent no.1 PIO vide his letter dated 1/11/2019 brought the said fact to the notice of Block Development officer and in support of his said contention he relied upon the letter dated 30/10/2019 alongwith Xerox copy of duplicate receipt of speed post and letter dated 1/11/2019 addressed to Block Development Officer by Respondent no. 1 alongwith other enclosures.

10. It was further submitted by the Respondent no. 1 PIO that there was no denial of information from his side and he had acted diligently under the RTI Act and on account of failure on part of appellant to deposit the requisite fees, the information could not be submitted to appellant
11. The respondent no.2 FAA vide his reply dated 23/1/2020 contended that reply dated 20/9/2019 of the Respondent no. 1 PIO was absolute clarity, thereby mentioning the amount to be paid by the appellant .
12. It was further contended that in the first appeal, the appellant has prayed for inspection, for direction to provide him information free of cost . It was further contended that on perusal of the documents placed on the records he observed that the Respondent no. 1 PIO had communicated to appellant well within time of 30 days to pay necessary fees and to collect information, however as no details about the number of pages and how the amount has been calculated was mentioned as

such he passed the speaking order dated 29/10/2019 directing the Respondent no. 1 PIO to provide all the information to the appellant after replying to him as envisaged under sub-section 3(a) of section 7 of RTI Act , 2005 and there after to provide the same after collecting the necessary fees /payment within 10 days. It was further submitted that directions has to be given to appellant to obtain the information from Respondent PIO against the payment of required fees as per order dated 29/10/2019 passed by him.

13. I have perused the records available in the file and considered, the pleadings and the submissions of both the parties. Considering the rival contention of the parties and the offer of the PIO to furnish the information ,the sole point for my determination arises is :

i. Whether the appellant is entitled to have the information free of cost ?

14. Sub section (1) of Section 7 states as under ;

“(1)Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer, or State Public Information officer, as the case may be, On receipt of a request under section 6 shall, as expeditiously as possible , and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9”.

15. The section 7(6) of RTI Acts reads as under :-

Not withstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub- section (1).

16. In the present case the application u/s 6 was filed on 16/8/2019. In the ordinary course the same was required to be decided within 30 days of the receipt of the same. The records relied by appellant as well respondents shows that the said application of the appellant was responded by respondent PIO on 11/9/2019 thereby answering and giving reply to all the points and also providing available information. Hence the said was responded well within stipulated time of 30 days as required and as contemplated under sub-section (1) of section 7 of RTI Act. From the said letter it appears that there was no denial of information and the respondent PIO even offered the inspection of records sought at point No. 4 being voluminous in nature. The respondent no. 1 PIO vide letter dated 20/9/2019 also provided clarification and intimated the necessary fees which were required to be deposited towards the Xerox copies of the said information sought at point no. 2,4,5,8 and 10. Hence on perusal of the above replies, it is seen that there was no denial of information from the PIOs side and the same was offered after depositing fees and hence I find that there is no contravention of provision of RTI Act for the appellant to get the information free of cost.
17. The appellant contended that in pursuant to the order of Respondent no. 2 the Respondent no. 1 has furnished reply vide letter dated 30/10/2019 which was received by him on 5/11/2019, is much beyond the time and default of order passed by Respondent No.2 and on that ground he sought for free information .
18. From the postal duplicate receipt relied by the respondent no. 1 PIO of having send the reply dated 30/10/2019 in compliance to the order of Respondent no.2, it is seen that the booking/dispatching date is recorded as 31/10/2019. On perusal

of the letter dated 1/11/2019 addressed to Block Development officer, relied by the Respondent PIO, one could gather that PIO had informed the Block Development officer about Village Panchayat Peon, visiting the place of the applicant on 30/10/2019 and refusal to accept the said reply by the family members of the appellant. There is also reference in the said letter of having send the reply dated 30/10/2019 to the appellant vide registered A.D. on 31/10/2019. The out ward numbers are also reflected on the above letters. Hence I find that the PIO has complied the order of first appellate authority within stipulated time as directed by Respondent no. 2.

19. The contention of the appellant as averred by him at para 10 that he visited the office of respondent No. 1 PIO on 7/11/2019 to collect the information however no information was furnished to him since it was not ready in the office is also not supported with any convincing evidence .
20. The Respondent no.2 first appellate authority in his reply dated 23/1/2020 before this commission have clearly submitted that since no details about the number of pages and how the amount have been calculated was mentioned in his earlier reply, he directed the respondent PIO to comply section 3(a) of section 7 of RTI Act, 2005 within 3 days and thereafter to provide same after collecting necessary fees/payment within 10 days.
21. Even assuming for a while the contention of the appellant that the compliance of the order was much beyond the time and defaulted the order passed by the Respondent no. 2, however the appellant herein have not pointed out any provision under RTI Act which entitled him for free information for non compliance of the order of first appellate authority .



22. 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;

“ 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”.

23. Even otherwise as per the demand of the PIO vide letter dated 30/10/2019 the number pages involved were 2603 and the information fees were calculated as Rs. 5264/-. Considering the volume of information as sought by the appellant, and considering the ratio laid down by the Hon'ble High Court Punjab and Haryana at Chandigarh in the matter of Dalbir Singh (supra), the expenses are obviously to be borne by the petitioner.

24. The RTI Act envisages free dissemination of information only in exceptional cases where the delay is intentional. I found no grounds to hold that the delay if any was caused herein was intentional or deliberate. The records reveals that there was no denial of information and the order of the respondent No. 2 was complied by the respondent No. 1. It appears that the appellant has not deposited the required fees. As such delay if any in furnishing information cannot be contributed entirely to the Respondent PIO.

25. The facts of present case doesn't warrant levy of penalty on the respondent PIO as the records shows that his application is responded well within 30 days of time, there was compliance

of order of first appellate and there was no denial of information .

26. In the above given circumstances I find no merits and hence I proceed to dispose the above appeal with order as under:-

Order

- a) The appeal is dismissed .
- b) The appellant shall deposit a sum of Rs. 5264/- towards information fees within 10 days from the date of the receipt of this order by him. The respondent No. 1 PIO shall furnish the information within 10 days from the date of deposit of such amount by the appellant .
- c) Considering the circumstances of the case the prayer for penalty is rejected

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