

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

Appeal No.: 72/2020/SIC-I/

Shri Nixon Furtardo,
H.No. 51, Copelwaddo,
Sernabatim Salcete -Goa.

.....Appellant

V/s

1. The Public Information Officer (PIO),
Office of the Village Panchayat Colva,
Colva , Salcete-Goa.

.....Respondents

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

Filed on: 2/3/2020

Decided on: 30/6/2020

ORDER

1. The brief facts leading to present appeal as putforth by the Appellant Shri Nixon L. Furtardo are as under:-
 - (a) The Appellant by his application dated 19/11/2019 filed under section 6(1) of Right to Information Act,2005 sought certain information on 6 points as stated therein in said application. The said information was sought with reference to the complaint dated 27/9/2019 under reference No. VP/SVCG/1294/2019-20 addressed to Colva Police Station .
 - (b) It is the contention of the Appellant that his above application filed in sub section (1) of section 6 of RTI Act was not responded by Respondent PIO within stipulated time of 30 days neither any information was furnished to him as such deeming the same as rejection, the Appellant filed first appeal before the Block Development Officer, Salcete –I on 30/12/2019 being First Appellate Authority in terms of section 19(1) of RTI Act, 2005. The said first appeal was registered as first Appeal FA.BDOS/RTIA/03/2019.

- (c) It is the contention of the Appellant that the respondent failed to remain present on several occasions before the First Appellate Authority. The Respondent No. 2 First Appellate Authority disposed of the said appeal by order dated 4/2/2020. By this order Respondent No. 2 First Appellate Authority allowed the said appeal and directed Respondent No.1 PIO to furnish the entire information within 10 days, free of cost, from the date of the order.
2. It is the contention of the Appellant that Respondent No.1, PIO did not comply with the order of Respondent No. 2, First Appellate Authority and also did not furnish him the information within 10 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 2/3/2020 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, 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 pursuance to the notice of this Commission, Appellant was represented by his brother Shri Nevil Furtado. Despite of due service of notice Respondent No. 1 PIO did not appear before this commission. Respondent No.2 First Appellate Authority opted to remain absent .

5. Since the Commission still not equipped with virtual hearing /Video Conferencing hence in order to avoid delay in disposal of cases, it was ordered that Respondent PIO if so desired shall file his submission/Reply/written arguments with PDF format to appeal proceeding within 5 days by email to this commission by forwarding the same to the opposite parties. Despite of giving opportunity to Respondent PIO no any say/written submission were placed on record, hence I presume and hold that the Respondent PIO has no any say to the offered and the averment made by the appellant are not disputed by him.
6. On behalf of the Appellant it was submitted by his representative that Respondent has deliberately denied and acted irresponsibly and he has failed to entertain the request thereby malafidely blocking the information sought for with ulterior motive. It was further contented that the PIO did not adhere to the direction given by the First Appellate Authority vide order dated 4/2/2020 .He further submitted that he required the said informtion on priority basis since the same can be useful for him to produce it during trial before court of law. He also pressed for invoking penal provisions against PIO.
7. I have scrutinised the records available in the file and considered the submissions made on behalf of Appellant .
8. On perusal of the application of that Appellant it is seen that the Appellant has sought the information from the public domain . on going through the Roznama of the Respondent no 2 First Appellate Authority in first Appeal No. FA.BDOS/ RTIA/03/2019, it is seen that the more particular in Roznama dated 21/1/2020 and 28/1/2020 the Respondent PIO was present and sought time to file reply . There is nothing on record of First Appellate Authority to show that Respondent PIO has resorted to the section 8 of RTI Act neither it was his case the said information is not available with the public Authority. Respondent No.2 First

Appellate Authority has also come into findings that said information is available with the public authority concerned herein and hence directed the Respondent no 1 PIO to furnish the entire information within 10 days free of cost from the date of the order. The Respondent no. 1 PIO is silent on the compliance of the order of the Respondent no. 2 First Appellate Authority. It appears that the order dated 4/2/2020 of the First Appellate Authority was not complied by Respondent PIO. The PIO failed to show as to how and why the delay in Responding the application of the Appellant filed in terms of section 6 (1) of RTI Act or not complying of the order of the First Appellate Authority was not deliberate and /not intentional. Thus the act of the PIO in denying the information even after the order of First Appellate Authority amounts to breach of mandate of RTI Act, 2005 .

9. The RTI Act envisages dispensation of information to show transferacy in functioning of the public authority and as such it has been held by the Hon'ble Apex Court and various High Court that dispensation of information is a rule and with holding as exception.
10. On perusal of the records it is seen that the application dated 19/11/2019 was filed and received by the office of Respondent PIO on 19/11/2019 itself . Under section 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. The Respondent PIO has not placed on record any documentary evidence of having adhere to section 7(1) of RTI Act ,2005 neither placed any documentary evidence on record of having complied the order of Respondent mo. 2 First Appellate Authority . Thus from the records and undisputed facts , it can be clearly inferred that the PIO has no concern for his obligation under the RTI Act and has no respect to obey the order passed by the senior officer. Such a conduct of PIO is obstructing

transfersy and accountability appears to be suspicious and adamant vis-a-vis the intent of RTI Act and hence it is condemnable and ought to be reported to his higher-ups .

11. In the facts and circumstances of the above case, I finds the ends of justice will meet with following directions . I therefore dispose the present appeal with order as under:

ORDER

- a) Appeal allowed.
- b) The Respondent no.1 PIO is hereby directed to comply with the order passed by the Respondent No. 2 First Appellate Authority on 4/2/2020 and to provide the information as sought by the appellant vide his application dated 19/11/2019, free of cost within 20 days from the receipt of this order.
- c) The Respondent No. 1 PIO is hereby admonished and directed to be vigilant henceforth while dealing with the RTI matters and to strictly comply with the provisions of the Act. Any lapses on their part in future will be viewed seriously.
- d) In excise of my powers conferred u/s 25(5) of RTI Act 2005 this Commission recommends that the Director of Panchayat, Panjim shall issue instruction to the respondent PIO to deal with the RTI matters appropriately in accordance with the provisions of the RTI Act and any lapses on the part of respondents be considered as dereliction of duties.
- e) Copy of this order shall be sent to Director of Panchayat, Panjim, Goa for information and necessary action.

With the above directions, the appeal proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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