

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

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**Appeal No.: 55/2020/SIC-I/**

Mr. Jawaharlal T. Shetye,  
H. No. 35/A Ward No. 11,  
Khorlim-Mapusa-Goa

.....Appellant

V/s

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

2. The First Appellate Authority (FAA),  
The Block Development Officer-I,  
Mapusa, Bardez –Goa.

.....Respondents

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

Filed on: 10/02/2020

Decided on: 06/03/2020

**ORDER**

1. The brief facts leading to present appeal are that the Appellant Shri Jawaharlal T. Shetye herein by his application dated 27/07/2019 filed under section 6(1) of Right to Information Act,2005 sought certain information on 23 points pertaining to letter number VPSS/2018-19/486 dated 29/06/2018 issued to Shri. Chandrakant Raya Chodankar and also other information as stated therein, from the Respondent No.1 Public Information Officer (PIO), of the office of Village Panchayat of Siolim-Sodiem, Bardez-Goa.
2. It is the contention of the Appellant that his said application was responded on 26/08/2019 and on 27/08/2019 by the Respondent No. 1 PIO interms of section 7(1) of RTI Act wherein he was requested to collect the information from Village Panchayat Office during office working hours after paying necessary fees of Rupees 28/- towards the same.

3. It is contention of the Appellant that he visited the office of the Village Panachayat Siolim-Sodiem on 10/09/2019 at 9.30 a.m. for collecting the requested information and he deposited an amount of Rs. 28/- and the Clerk from the said Panchayat provided him documents which were ready on 10/09/2019 and the other information she agreed to send the same by Registered A.D. to the Appellant.
4. It is the contention of the Appellant that he received the reply/letter bearing no. VPSS/2019-20/847 dated 26/08/2019 signed on 16/09/2019 by the Secretary which was received by him on 19/09/2019 by the registered A. D. Post.
5. It is the contention of the Appellant after scrutinising the said information dated 26/08/2019 received from the Respondent No. 1 PIO, he was not satisfied with the information furnished to his queries at serial numbers 5 to 13 and at 15, 20 to 23 of his RTI application dated 27/07/2019 as such he preferred first appeal on 23/09/2019 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/63 / 2019.
6. 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 2/12/2019. By this order the Respondent No. 2, First Appellate Authority(FAA) partly allowed the said appeal and directed Respondent No.1 PIO to allow the Appellant to inspect the records in respect of the information at point No. 5, 6, 7,8, 9, 10, 11, 12, 13, 15, 20, 21, 22 and 23 of Right to Information application dated 27/07/2019 and to furnish whatever information that is existing, strictly within the ambit of Right to Information Act,

the request of the Appellant which the Appellant identifies during inspection of records within a period of thirty (30) days from the date of receipt of the order and the Respondent PIO also was directed to strictly adhere to the provision of section 4.1(a) and (b) of the Right to Information Act, 2005 .

7. 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 30 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
8. In this background the Appellant has approached this Commission on 10/02/2020 in this second appeal with the grounds raised in the memo of appeal and with the contention that the complete 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.
9. 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 opted to remain absent despite of due service of notice. Respondent No.2 First Appellate Authority was represented by Shri Umesh Shetgoankar.
10. No reply came to be filed by the Respondent No. 1 PIO neither he remained present before this Commission despite of due service of notice. Hence it is presume and held that

Respondent No. 1 PIO have no say to be offered and the averments made by the Appellant in the memo of appeal are not disputed by the Respondent PIO. It appears that the Respondent PIO is not interested in contesting the present proceeding hence the arguments of the Appellant and the Representative of the Respondent No. 2 First Appellate Authority were heard.

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 2/12/2019 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, First Appellate Authority.
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 that he wants the information on priority basis in order to approach the competent forum

15. The representative of Respondent No., 2 first appellate authority submitted that the appropriate order have been passed by Respondent No. 2 and has been communicated to the parties.
16. I have perused the records available in the file and considered submissions of the parties.
17. The Act envisages dispensation of information to show transparency in functioning of the public authority and as such it has been held by the various Hon'ble courts and the Hon'ble Apex Court that dispensation of the information is a rule whereas withholding as exception
18. On perusal of the records, more particularly the judgment and order of the Respondent No.2 dated 2/12/2019, it also reveals from the said Judgement that the Respondent No. 2 First Appellate Authority had carefully gone through the RTI application dated 27/7/2019, the reply dated 26/8/2019, the appeal memo and the reply to the appeal by the Respondent PIO. 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 2/12/2019 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.
19. The information was sought on 27/7/2019 by the Appellant and despite of giving directions by the Respondent no. 2 First Appellate Authority, no complete information till date have been furnished to the Appellant.

20. The PIO must introspect that 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.
21. 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.
22. 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 since there is no evidence on records produced by the Appellant that such lapses on the part of PIO, is persistent a lenient view is taken in the present proceedings and is directed to be vigilant hence forth while dealing with the RTI matters. Any lapses found in futures shall be viewed seriously.
23. 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.

24. 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.
25. 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.
26. 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) The Respondent no. 1 PIO is hereby directed to comply the order dated 2/12/2019 passed by the Respondent No. 2 First Appellate Authority and to allow the Appellant to inspect the records in respect of the information at point No. 5, 6, 7,8, 9, 10, 11, 12, 13, 15, 20, 21, 22 and 23 of Right to Information application dated 27/07/2019 within 8 days from the receipt of the order and to furnish whatever information that is existing to the Appellant which the Appellant identifies during inspection of records within a period of 10 days from the date of identifying the documents.
- b) The Public Authority concerned herein i.e the Village Panchayat of Siolim-Sodiem, Bardez-Goa is hereby directed to comply with section 4 of Right To Information Act, 2005 within 6 months in case the same is not complied.

With the above directions the appeal proceedings stands closed.

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