

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

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**Appeal No. : 157/2019/SIC-I**

Mr. Pradeep Gurudas Gaonkar,  
Hno.1440/1,  
Baynem Shiroda Ponda Goa.  
403103.

**.....Appellant**

**V/s**

1. Public Information Officer,  
(Technical Section),  
Executive Engineer, Surendra Gaonkar,  
South Goa Zilla Panchayat Margao,  
Margao-Goa.  
403601
2. The First Appellate Authority,  
Chief Executive Officer,  
Florina Colaco,  
South Goa Zilla Panchayat Margao,  
Margao-Goa.  
403601.

**....Respondents**

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

**Filed on: 31/05/2019**  
**Decided on: 23/12/2019**

**ORDER**

1. The brief facts leading to the present appeal as put forth by the appellant Sri Pradeep Gurudas Gaonkar are as under:-
  - (a) In exercise of right under section 6(1) of RTI Act, 2005, the Appellant filed application on 18/12/2018 seeking certain information on 20 points as listed therein pertaining to Junior Engineer Franklin South Goa Zilla Panchayat from the date of his appointment till date. The said informations was sought from Respondent No.1 Public Information Officer (PIO) of the office of South Goa Zilla Panchayat, Margao Goa.
  - (b) It is the contention of the appellant that his said application was not responded by the Respondent PIO

herein nor the information furnished to him within stipulated time of 30 days as contemplated under section 7(1) of the RTI Act, 2005, as such considering the same as rejection, the appellant filed first appeal on 28/01/2019 before the Respondent No. 2, Chief Executive Officer of South Goa Zilla Panchayat, Margao being First Appellate Authority interms section 19(1) of RTI Act, 2005.

- (c) It is contention of the appellant that during the hearing before the First Appellate Authority, on 26/02/2019, the Respondent PIO furnished him certain information and on verification of the said information it was brought to the notice of Respondent No. 2 First Appellate Authority that information provided to him by respondent no.1 PIO was incomplete, misleading and out of point.
- (d) It is a contention of the appellant that the Respondent No. 2 FAA disposed the said appeal by an order dated 05/03/2019 by upholding the say of the appellant and vide said order directed the respondent no. 1 PIO to furnish the complete and proper information to the appellant within the period of 8 days from the date of the order.
- (e) It is the contention of the appellant that he made several visits to collect the information from the PIO but the same was not furnish to him and the respondent no.1 delayed in providing information on one pretext or the other saying that the subordinate Jr. Engineer Franklin Barboza is busy in some other work or gone for site inspection or not available in the office.
- (f) It is the contention of the appellant that the respondent no1 PIO in compliance to the order of FAA dated 19/02/2019, vide his letter dated 04/04/2019 again provided him incomplete information.

(g) It is contention of the appellant that since no complete information was provided by Respondent No.1 PIO inspite of the information being available with the Public Authority, as such he being aggrieved by the action of the Respondent no.1 PIO is forced to approach this Commission by way of 2<sup>nd</sup> appeal.

- 2) In this background the appellant has approached this Commission on 31/05/2019 in this second appeal as contemplated under section 19(3) of RTI Act 2005 with the contention that the complete information is still not provided and seeking order from this Commission to direct the PIO to furnish him the information as sought by him as also for invoking penal provisions for inaction on the part of PIO in complying with the provisions of the Act.
- 3) 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 Surendra Gaonkar was Present along with Jr. Engineer Franklin Barboza. Respondent No. 2 First Appellate Authority opted to remain absent.
- 4) During the course of hearing, since the appellant showed his displeasure with regards to information furnished to him at point no.5, 16 to 20, the respondent PIO requested the appellant to carry out the inspection of the records and to short list his requirements, such an arrangement was also agreed upon by the appellant herein. The information was furnished to the appellant during the hearing on 20/08/2019 by the PIO Vide letter dated 19/08/2019.
- 5) An written submissions came to be filed by the appellant on 13/09/2019 intimating this commission that after inspection of the records he submitted list about the information required by him and still incomplete information is provided to him. The appellant also vide his written submission dated 12/12/2019 has

placed before this commission what is the information not provided to him at point no.16 to 19 and submitted that he has visited numerous time to collect the information but the said was neglected and delayed deliberately.

- 6) Reply was filed by Respondent No. 1 PIO on 23/12/2019. The copy of the above replies alongwith the enclosures were furnished to the Appellant.
- 7) Arguments were advanced by both the parties.
- 8) It is contention of the appellant that he has sought the said information in larger public interest. It was further submitted that information for the first time furnished to him before the FAA and that too was incomplete and hence the Respondent PIO has acted carelessly and negligently by not furnishing correct and complete information within prescribed time. It was further submitted that the Respondent PIO is delaying in furnishing complete and correct information to protect and cover up irregularities committed by Jr Engineer Franklin Barboza. It was further submitted that due to non furnishing of the correct and complete information lots of hardship is caused to him and he had to approach different forum in pursuing his RTI application and on that ground the appellant vehemently pressed for invoking penal provisions against Respondent PIO.
- 9) The Respondent PIO submitted that on receipt of the application dated 18/12/2018 the same was marked to the concerned staff of the different department of the office of the South Goa Zilla Panchayat who are handling the concerned files and the concerned staff while attending to the said works in question envisaged difficulty in understanding the contents of the application of the appellants and as such they referred back the said application to the concerned higher officials who are handling the subject for their necessary suggestions or clarification.

- 10) It was further contended in compliance with the order of First Appellate Authority, he vide his letter dated 04/04/2019 provided appellant the said information. It was further contended that as per the direction of this commission, the respondent PIO also provided him the inspection of records and Junior Engineer has submitted his report on 02/07/2019 of having carried inspection by the appellant on 01/07/2019. It was further contended that vide letter dated 02/07/2019 he has furnished the additional information to the appellant, free of cost.
- 11) In the nut shell, it is the case of the respondent PIO that whatever available information in the records of the office of Zilla Panchayat which provided to him by the custodian Shri Franklin Barboza have been furnished to the appellant and delay if any caused is only on the account of clarification and tracing of voluminous records/files and not other wise.
- 12) I have perused the records and considered submissions of both the parties.
- 13) It is seen from the records that the application u/s 6(1) of the act was filed by the appellant on 18/12/2018. U/s 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. There are no records produced by the PIO that the same is adhered to. The contention of the appellant in the appeal is that the said application was not responded to at all by the PIO thus from the undisputed and unrebutted averments, I find some truth in the contention of the appellant that the Respondent No. 1 PIO have not acted in the conformity of the provision of the RTI Act, 2005.
- 14) From the records it reveals that even during the FAA stage no complete information was provided to the appellant herein and the said fact is reflected in the order dated 05/03/2019 passed by the respondent no.2. On perusal of the order of respondent no.2,

it is seen that the respondent no.1 PIO was directed to furnish the complete, proper information to the appellant with a period of 8 days. Hence the PIO was supposed to furnished the information on or before 15 March 2019. However from the letter 04/04/2019 of the PIO furnishing so called information, it could be gathered that said was not complied within time as directed by FAA.

- 15) Despite of providing the list by the appellant vide written submission dated 12/12/2019, no any information came to be provide to the appellant herein despite of giving ample opportunities to the respondent PIO to furnish the same. What is sought are the public documents. It is not the case of the PIO that same is not available in the records or weeded out as per procedure. The application was filed by the appellant on 18/12/2018 and we are in December 2019 still in the present case the PIO is seeking time to furnish the same on the ground that it is voluminous. Hence apparently there is a delay in furnishing complete and correct information.
- 16) The PIO also failed to show vis-a-vis any supporting documents as to how and why the delay in responding the application and/or not furnishing the complete information was not deliberate and/or not intentional.
- 17) 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.
- 18) 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 the contravention of section 7(1) of the act, and for delay in furnishing the complete information.

19) I therefore dispose the present appeal with order as under ;

### **O R D E R**

#### **Appeal allowed**

- a) The respondent no.1 PIO is hereby directed to furnish complete and correct information at point no 16, 17, 18 & 19 as sought by the appellant vide his application dated 28/02/2019, more particularly listed in his written submissions dated 12/12/2019, within 20 days, free of cost, from the date of receipt of this order.
- b) Issue notice to respondent PIO to show cause 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 contravention of section 7(1), for and for delay in furnishing the complete information.
- c) 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 along with full name and present address of the then PIO.
- d) Respondent, PIO is hereby directed to remain present before this commission on 13/01/2020 at 10.30am along with written submission showing cause why penalty should not be imposed on him/her.
- e) Registry of this Commission to open a separate penalty proceedings against the Respondent PIO.

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.

Pronounced in the open court.

Sd/-

**(Ms.Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa