

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

Appeal No. 74/2020/SIC-I

Shri Nixon B. Furtado,
H No. 51, Copelwado,
Sernabatim, Salcete Goa. 403708

.....Appellant

V/s

1. Public Information Officer,
Office of the Village Panchayat of
Colva, Salcete Goa. 403708
2. The First Appellate Authority,
O/o. Block Development Officer-I,
Salcete, Margao-Goa.

.....Respondents

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

Filed on: 02/03/2020

Decided on:14/08/2020

ORDER

1. The Appellant, Shri Nixon Furtado has filed the present appeal on 2/3/2020 praying that the Information as requested by the him in his application dated 28/10/2019 be furnished to him correctly and for invoking penal provision.
2. Brief facts of the present proceedings as putforth by Appellant are as under :-
 - (a) In exercise of right under section 6(1)of right to information Act ,2005 the Appellant filed an application on 28/10/2019 seeking certain information from the public information officer of the office of Block Development Officer, Margao, Salcete-Goa on 8 points as stated therein in the said application.
 - (b) It is the contention of the Appellant that public information officer i.e Block Development Officer, Salcete-I vide his letter bearing No.1/131/RTI/BDOS/2019/3361 dated 5/11/2019 transferred his application interms of section

6(3) to the Respondent no. 1 PIO of the office of Village Panchayat Sernabatim, Vanelim, Colva, and Gandaulim, Salcete. Goa requesting to furnish the information at point No. (3),(5), and (8) and to dispose off the request as per section 7(1) of RTI Act 2005.

- C. It is the contention of the Appellant that his above application filed in terms of sub section (1) of section 6 was not responded by the Respondent No. 1 Public Information Officer (PIO) of the Village Panchayat of Colva within stipulated time of 30 days as contemplated u/s 7(1) of RTI Act neither the information was provided to him till this date as such deeming the same as rejection, he filed 1st appeal with office of Block Development Officer, Salcete-I Margao-Goa on 30/12/2019 being First Appellate Authority in terms of section 19(1) of RTI Act.
- d. It is the contention of the Appellant that the notices of the Said first Appeal were given to the both the parties. However the Respondent PIO failed to remain present for the several occasion for the hearing before First Appellate Authority and therefore the First Appellate Authority, passed an order dated 4/2/2020 directing the Respondent to furnish the information within 10 days from the receipt of the order free of cost.
- e) It is the contention of the Appellant that even after passing of the order by the First Appellate Authority the Respondent PIO failed to provide the information as directed by the order dated 4/2/2020.

- 3. In this above background the Appellant being aggrieved by action of PIO, has approached this commission on 02/03/2019 in this second appeal u/s 19(3) of the Act on the ground raised in the memo of Appeal and with a contention that the information is still not provided and seeking order from this commission to direct the

PIO to furnish the information as also for invoking penal provisions as against Respondent PIO for obstructing /ignoring the provisions of RTI Act, 2005 and putting the Appellant into difficulties, waste of time and money and for creating mental torture to him and for the detriment suffered by him at the hands of Respondents.

4. Matter was taken up on board and was listed for hearing and accordingly notices were issued to the parties. Appellant was represented by his brother Shri Nevil Furtado. Respondent PIO Shri Amol Tilve appeared. Respondent No. 2 opted to remain absent.
5. Respondent No.1 PIO filed his reply on 27/7/2020 and also Affidavit in reply on 14/8/2020.
6. It is the contention of the Appellant that he had addressed a letter dated 28/10/2019 to the Block Development Officer, Salcete seeking the certified copies of documents with reference to the memorandum of BDO issued to the Secretary of Village Panchayat of Colva under reference No.3/Complaint/Colva/BDOS/2019–20/2793 dated 17/9/2019 and memorandum under reference Number 3/complaint/Colva/BDOS/2019–20/3015 dated 7/10/2019 directing to submit detail explanation in the matter within 10 days. It was further contended that he had sought the said information pertaining to the same subject matter and the Respondent PIO deliberately denied, refused and acted irresponsibly and failed to entertain his request interms of RTI Act 2005, there by malafidely blocking the information for ulterior motive and ignored the provisions of the Act which constitute a gross and balatant violation of the Act . It was further contended that the Respondent PIO has ignored/disobeyed the orders passed by the First Appellate Authority directing him to furnish the information and pressed for invoking penal provision on the ground that the hardship has been caused to him.

7. On the other hand the Respondent No.1 PIO submitted that the BDO Salcete has wrongly forwarded the said application to him under section 6(3) of RTI Act and the BDO ought to have worked on the said application by either allowing it or rejecting it. It was further contended that the since the application under the RTI was addressed to BDO Salcete, therefore the BDO Salcete himself should not have entertained the first appeal since had to ultimately have to decide whether the transfer made by him u/s 6(3) was legally justified or not and being a judge in his case, the BDO has allowed grave miscarriage of justice .
8. It was further contended by Respondent no.1 PIO that the application under RTI seeks rambling information at point no.3, 4, 5, and 8 from a different Department, which is the traffic police department and therefore the said application ought to have been partly rejected to that extent and partly allowed by the BDO to the extent of the information available in the office of BDO Salcete.
9. It was further contended that the representative of the Appellant who is also his brother had previously filed RTI Application dated 20/9/2019 in the office of Respondent seeking various information including the information that the Appellant has sought at point No. 5 & 8 and the said information is already provided to him on 22/2/2020 which was acknowledged by the Appellants representative.
10. It was further contended that Appellant herein always been represented by his brother in appeal which were decided by this commission and the present appeals are misused of the RTI law machinery to harass the PIO and to unnecessary subject him to harassment and intimidation.
11. The Respondent in support to his above contention relied upon the copy of RTI application dated 20/9/2019,his forwarding letter

dated 22/2/2020 furnishing the information, letter No. PSI/PC/Colva/227/2019 and letter bearing No. PSI/PC/Colva/1179/2019 dated 29/11/2018 addressed to the sarpanch of Colva by Police Inspector, Traffic Cell, Colva.

12. I have scrutinised the records available in the file also considered the rival submission of both the parties.

13. The Appellant at point No. 3, 5 and 8 had sought a following information

(i) Copy of the letter dated 19/11/2018 of the Deputy Superintendent of Police, traffic South-Goa, Margao under reference No. DYSP/TRF/ MAR /1790/2018 addressed to Sarpanch, Village Panchayat of Colva.

(ii) Copy of the letter dated 29/11/2019 under reference No. PSI/TC/COLVA/1179/2018 from the traffic Cell Colva addressed to the Village Panchayat Colva.

(iii) Copy of the letter dated 22/02/2019 under reference No. PSI/TC/COLVA/227/2019 from the traffic Cell addressed to the Sarpancha, Village Panchayat Colva.

14. On verification of the RTI Application dated 28/10/2019 filed by the Appellant herein which is subject matter of the present proceedings vis-a-vis the RTI application dated 20/9/2019 filed by Shri Nevil Furtado, it is seen that the information sought at point No.5 and 8 was provided by the Respondent PIO to the brother of Appellant herein namely Shri Nevil Furtardo on 22/2/2020 in appeal No,342/2019/SIC-II and he has acknowledged the same.

15. The Hon'ble High Court Punjab in writ petition No. 5456 of 2011, Karamjit Singh V/s State Information commission, Punjab has held as under:-

“ The Information sought by the petitioner No. 1 as a member of gram Panchayat under the Right to

Information Act had already been supplied to petitioner No. 2 and other member of the Gram Panchayat by Respondent No.2. The State Information Commission, Punjab was right in declining supply of the same information time and again. However, the impugned order to the extent of directing initiation of action against the petitioners is set aside-Writ petition allowed in part.”

16. Since the information at point No. 5 and 8 is already supplied to the brother of the Appellant herein hence by subscribing to the ratio laid down in the Karamjitsingh (Supra) I am of the opinion that it need not be order to be furnished again.
17. The information sought at point no.3 i.e. Copy of the letter dated 19/11/2018 of the Deputy Superintendent of Police, traffic South-Goa, Margao under reference No. DYSP/TRF/MAR/1790/2018 addressed to Sarpanch, Village Panchayat of Colva is bound to be in the records of the public authority concerned herein which is still not furnished to the Appellant herein. Since the said information is in the public domain, I am of the opinion the Appellant is entitled to receive the said information.
18. The RTI came to existence to provide fast relief as such time limit is to provide the information within the period of 30 days to dispose the first appeal maximum within 45 days and to transfer the application interms of section 6(3) within 5 days.
19. On perusal of the records, it is seen that the application dated 28/10/2019 was transferred interms of section 6(3) of RTI Act on 5/11/2019. 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 adhered to section (7) of RTI Act, 2005.

20. The records shows that the first appeal was filed by the Appellant on 30/12/2019 and the order was passed by the First Appellate Authority on 4/2/2020. The First Appellate Authority vide his order directed Respondent to furnish the required information. It is not a case of PIO that the order of First Appellate Authority was challenged by him or has complied the order of the First Appellate Authority. The PIO has also not placed on record any correspondence made by him to the Appellant in pursuant to the said order, no reasons whatsoever were intimated to First Appellate Authority nor to the Appellant herein why he would not comply the said order in time. The Respondent PIO have not produced any documentary evidence on record of having complied the order of First Appellate Authority.
21. Thus from the records and undisputed facts, it could be gathered that the Respondent PIO have failed to respond the said application filed by the Appellant u/s 6(1) of RTI Act and also did not complied the order of First Appellate Authority .
22. The information was sought on 28/10/2019 and till date no complete information has been furnished to the appellant. There is a delay in furnishing the information.
23. From the above gesture of PIO, I find that the entire conduct of PIO is not in consonance with the Act as he repeatedly failed to provide information. Respondent PIO have not acted with conformity with the provision of RTI Act, hence such an act on the part of the Respondent herein is condemnable. However as there is no convincing evidence on record attributing malafides on the part of PIO, hence a lenient view is taken in the present proceedings.
24. 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

- a) Appeal allowed.
- b) The Respondent PIO is hereby directed to provide the information at point No. (3) as sought by the Appellant vide his application dated 28/10/2019, free of cost within 20 days from the receipt of this order if the same is available in the records of public authority concerned herein and in case the same is misplaced/not traceable then PIO to do the inquires within 2 months of the missing of said letter dated 19/11/2018 of the Deputy Superintendent of Police, traffic South-Goa, Margao under reference No. DYSP/TRF/MAR/1790/2018 addressed to Sarpanch, Village Panchayat of Colva and to inform Appellant about the out come of the said inquiry.
- c) The Respondent PIO is hereby admonished and directed to be vigilant henceforth while dealing with the RTI matter and strictly complied by the provision of RTI Act any lapses on his part in future shall be viewed seriously.

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