

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

Appeal No. 335/2019/SIC-I

Shri Surendra Govekar ,
R/o H.No. 678/5, Soratto Waddo,
Anjuna, Bardez – Goa
Pin code: 403509

....Appellant

V/s

1)The Public Information Officer (PIO),
Village Panchayat at Anjuna-Caisua
Bardez – Goa.
Pin code: 403509 .

2)First Appellate Authority (FAA),
Block Development Officer Bardez,
Mapusa, Bardez – Goa.
Pincode: 403507 .

.....Respondents

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

Filed on:25/11/2019
Decided on:25/02/2020

ORDER

1. Brief facts of the present proceedings as put forth by the appellant Shri Surendra Govekar are as under:-
 - (a) In exercise of right under section 6(1) of right to information Act, 2005 the appellant filed application on 06/07/2019 seeking certain information from the Respondent No. 1 public information officer of the Village Panchayat Anjuna- Caisua on 5 points as stated therein in the said application in respect of various trade establishment licence and no objection certificates (Provisional) issued for Guest House, Hotel, Hostel, Restaurant, Bar and Restaurant, Whole sale of Liquor Shop, Supermarkets, Spa, Temporary Huts, Temporary Shacks, Temporary Stalls, Temporary Restaurant, Shops, General

Stores, travel Agencies, Medical Stores, Pharmacy's, Ayurvedic Massage Centre, massage Centre Ayurvedic Spa, Commercial Establishment & others N.O.C.s etc. within Panchayat Jurisdiction issued by Anjuna Caisua Panchayat from the period 15/09/2017 to 6/7/2019 and also sought for inspection of concerned subject files/diary, inward outward register, receipt books, proceedings books and registers.

- (b) It is the contention of the appellant that his above application filed in terms of sub section (1) of section 6 was responded by the respondent PIO on 1/8/2019 wherein the information sought was rejected to him on the ground that information sought is voluminous and the same will further disproportionately divert the resources of public authority and would be detrimental to the safety and preservation of the public records.
- (c) It is the contention of the appellant that he being not satisfied with the above reply of Respondent No. 1 PIO and deeming the same as rejection, the appellant filed 1st appeal on 9/8/2019 interms of section 19(1) of RTI Act before the Respondent No. 2 the Block Development officer at Mapusa, Bardez-Goa being First Appellate Authority .
- (d) It is contention of the appellant that the respondent No. 2 first appellate authority after hearing the parties, vide order dated 9/10/2019 allowed his appeal and directed the respondent No. 1 PIO to allow the inspection of the records and to furnish the complete information within a period of 15 days, free of cost from the date of the order.
- (e) It is contention of the appellant that the Respondent No. 1 PIO did not comply the order of the Respondent No.2 First

Appellate Authority and hence breached the mandate of RTI Act, 2005 and has shown utter disregard and contempt of order passed by Respondent No. 2 and as such he being aggrieved by the deemed refusal/non furnishing of full and correct information is forced to approach this commission in his 2nd appeal as contemplated u/s 19(3) of RTI Act thereby seeking relief of directions to PIO to furnish the information as also seeking penalty .

2. In this background the present appeal came to be filed before this commission on 25/11/2019 on the grounds raised in the memo of appeal.
3. Notices were issued to both the parties. In pursuant to notice of this Commission, Appellant was present in person alongwith Advocate Atish Mandrekar. Respondent PIO Shri Dharmendra Govekar was present alongwith Advocate Kapil Kerkar. Respondent no. 2 was represented by Shri Umesh Shetgaonkar only during initial hearing i.e on 16/12/2019 .
4. Reply came to be filed by Respondent No. 1 PIO on 11/2/2020. The copy of the same was furnished to the advocate for the appellant
5. In the course of the proceedings before this Commission Respondent No. 1 PIO undertook to furnish the information to the appellant including inspection of the records. The date for inspection was fixed by both the parties on 21/1/2020 and the matter was then kept for furnishing information . Accordingly the information came to be submitted to the appellant on 24/2/2020 alongwith the documents to the appellant. Appellant after verifying the same submitted that the same is furnished to him as per his requirement. He further submitted that as his main intention was to receive the information and since the

information now been provided he is not pressing for penal provision. Accordingly endorsed his say on the memo of appeal.

6. Since available information have been now furnished to the appellant, free of cost as per the requirements of the appellant, I find no further intervention of this commission is required for the purpose of furnishing information and hence prayer(I) becomes infructuous.
7. The Commission hereby observes that the Respondent No. 1 PIO have not acted in conformity with the provisions of the RTI Act. Once the order was passed by the first appellate authority who is superior officer of the PIO, it was for PIO to comply the said order unless the same is challenged. There is no records available in the file that the same was challenged by the PIO.
8. If the correct and timely information was provided to the appellant, it would have saved valuable time and hardship caused to the appellant herein in pursuing the appeal before the different authorities. It is quit obvious that the appellant has suffered lots of harassment and mental torture in seeking the information under the RTI Act. If prompt and correct information was provided at the initial stage itself, such harassment and detriment could have been avoided.
9. There is delay in furnishing complete information. However considering the facts that applications was Respondent well within the period of 30 days also taking into consideration that appellant did not press for penal provisions, this commission takes a lenient view in the present proceedings and the respondent No. 1 PIO is here by admonished. Any lapses if found on the part of such officer who acts as a barrier in smooth implementation of the Act, will be viewed seriously and shall be dealt sternly henceforth.

10. 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 an 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.
11. 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.
12. 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.
13. 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) Since the available information is now been furnished as sought by the appellant vide his application dated 6/7/2019, no further intervention of this Commission is

required for the purpose of furnishing the same and prayer I & II becomes infructuous .

- b) The respondent No. 1 PIO is hereby admonished and he is hereby directed to be vigilant henceforth while dealing with the RTI matters and any lapses if found in future will be viewed seriously.
- c) The public authority concerned herein i.e the Village Panchayat of Anjuna–Caisua, Bardez-Goa is hereby directed to comply with section 4 of RTI 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.

Pronounced in the open court.

Sd/-

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