

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

Appeal No. 342/2019/SIC-I

Shri Nevil B. Furtado,
 H.No. 51, Copelwaddo,
 Sernabatim Salcete-Goa.

.....Appellant

V/s

1. Public Information Officer (PIO),
 O/o the Village Panchayat of Colva ,
 Salcete-Goa.
2. First Appellate Authority,
 O/o the Block Development Officer,
 Salcete, Margao-Goa.

.....Respondents

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

Filed on:29/11/2019
 Decided on:03/02/2020

ORDER

1. The brief facts leading to present appeal are that the appellant Shri Nevil Furtado herein by his application dated 20/09/2019 filed under section 6(1) of Right to Information Act,2005 sought certain information on 4 points as stated therein including inspection of the records from the Respondent No.1 Public Information Officer (PIO), office of the Village Panchayat of Colva at Salcete-Goa more particularly regarding encroachment by Gaddas in road set backs and public spaces since 1/6/2018 till date of filing application.
2. It is contention of the Appellant that the said application was not responded by Respondent No. 1 PIO and since the Respondent no. 1 PIO failed and refused to furnish him the said information as such he preferred 1st appeal on 21/10/2019 before the Block Development officer, South-Goa at Margao being First appellate Authority (FAA).

3. It is the contention of the appellant that the Respondent NO. 1 PIO despite of notice, failed to remain present for entire hearing taken place on several occasions before the Respondent no. 2 First appellate authority and hence the Respondent no. 2 First appellate authority by an order, dated 21/11/2019 allowed the said appeal and directed PIO to furnish the complete information and also inspection to the appellant free of cost within 7 days .
4. It is contention of the Appellant that the Respondent No. 1 PIO did not comply the order of the First Appellate authority and did not furnish him information as such being aggrieved by the action of PIO , he is forced to approach this Commission by way of second appeal.
5. In this back ground the present appeal came to be filed before this commission on 28/11/2019 under section 19(3) of the RTI Act 2005 , there by seeking direction to PIO for furnishing him the said information and for invoking penal provisions against the respondent PIO.
6. Notice were issued to both the parties. In pursuant to which appellant was present in person. Respondent Shri Amol Tilve appeared alongwith Advocate J.Mendes. Respondent No. 2 Shri Amitesh A. Shirvoikar appeared and filed his reply on 21/1/2020.
7. During the course of the hearing the PIO showed his willingness to provide the inspection of the records to the appellant and the appellant also agreed to carry the inspection first and then to identify the documents which are required by him. Accordingly date for inspection was mutually fixed by both the parties on 25/1/2020 at the office of Village Panchayat at Colva
8. On the subsequent date of hearing the Advocate for Respondent PIO submitted that appellant has carried the due inspection on 25/1/2020 and identified the documents. He further submitted

that the part of the information is ready and sought time to compile the complete information.

9. Appellant submitted that 4 months have been passed and till now 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 adhere to the direction given by the FAA vide order dated 21/11/2019.
10. He further submitted that he requires the said information on priority basis as he desires to file writ before the Hon'ble High Court and that he is knocking the doors of different authorities to get the said information which was sought by him with larger public interest. It was further submitted that lots of valuable time and energy have been lost in pursuing the application and on the above grounds he prayed for invoking penal provisions against Respondent PIO.
11. I have perused the records available in the file and considered submissions of both the parties.
12. It is seen from the records that the application u/s 6(1) of the Act was filed by the appellant on 20/9/2019. 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 with the provision of the Right To Information Act, 2005.
13. It appears that the order dated 21/11/2019 of First Appellate Authority was not complied by the Respondent PIO. The PIO failed to show as to how and why the delay in responding the

application and/or not complying the order of first appellate authority was not deliberate and /or intentional.

14. Ample opportunities were given to Respondent PIO to file his reply and to furnish the said information despite of same, PIO failed to provide him information and to file reply.
15. The application was filed on 20/9/2019 and till date the information has not been furnished to the appellant. The inspection and the information has been offered only during the present proceedings. There is delay in furnishing information which was sought with a specific purpose.
16. 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.
17. 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.
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, for not compliance of order of first appellate authority and for delaying the information.
19. Before parting it need to mention that section 4 of the Act casts an obligation on all public authorities to maintain records duly computerized 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.

20. 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.
21. 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.
22. 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 allowed

- a. The respondent no. 1 PIO is hereby directed to furnish the information as sought by the appellant vide his application dated 20/9/2019, free of cost within 10 days from the receipt of the order.
- b. The public authority concerned herein i.e the Village Panchayat of Colva, Salcete-Goa is hereby directed to comply with section

4 of RTI Act,2005 within 6 months in case the same is not complied.

- c. Issue notice to respondent PIO to showcause 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 not complying the order of first appellate authority and for delay in furnishing the information.
- d. 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 alongwith full name and present address of the then PIO.
- e. Respondent, PIO is hereby directed to remain present before this commission on 17/2/2020 at 10.30 am alongwith written submission showing cause why penalty should not be imposed on him/her.
- f. Appeal proceedings stands closed. Registry of this Commission to open a separate penalty proceedings against the Respondent PIO.

Pronounce 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.