

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

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**Appeal No. 42/2020/SIC-I**

Shri Nazareth Baretto,  
Agriculturist ,Indian National,  
Resident of H.No. 126, Borda,  
Margao, Salcete-Goa.

....Appellant

V/s

The Public Information Officer (PIO),  
Administrator of Comunidades,  
South Zone, Margao, Salcete-Goa.

.....Respondent

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

Filed on:05/02/2020  
Decided on:25/06/2020

**ORDER**

1. The brief facts leading to the second appeal as put forth by the Appellant Shri Nazareth Baretto are that, the Appellant vide his application dated 19/8/2019 had sought for certain information from Respondent Public Information Officer (PIO) of Administrator of Comunidade , South Zone, Salcete-Goa on 2 points i.e had sought for the copy of the approval given to resolution of Comunidade of Dovorlim and to the comunidade of Dicarpace , to authorised Silvestre Niasso , treasurer to attend /represent the hearing in the Court matters relating to the Comunidade Dovorlim and of the Comunidade of Dicarpace . The said information sought in exercise of his right u/s 6(1) of RTI Act, 2005.
2. 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 PIO within stipulated time of 30 days neither the information was provided to him despite of him visiting the office of the Respondent on various occasion as such deeming

the same as rejection, the appellant filed 1<sup>st</sup> Appeal before the office of Collector, Collectorate Building, at Margao Goa being First Appellate Authority interms of section 19(1) of RTI Act which was registered as case No. 51/RTI-Appeal /Est/AC-I/2019.

3. It is the contention of the appellant that in pursuant to the notice of First Appellate Authority he remained present for the hearing however the Respondent failed to remain present despite of due service of notice.
4. It is the contention of the Appellant that First Appellate Authority vide order dated 29/11/2019 allowed his appeal and directed the Respondent PIO to issue the desired information to the Appellant.
5. It is the contention of the Appellant that in spite of the said order, even after the lapse of more than two months from passing of the order the said information was not furnished and hence the Appellant has approached this commission in his 2<sup>nd</sup> appeal seeking relief of directions to PIO to furnish the information as also seeking penalty and compensation for not giving information within time.
6. The matter was taken up on board and was listed for hearing. Accordingly notices were issued to both the parties. In pursuant to notice of this commission, Appellant appeared in person alongwith Advocate Umesh Mangeshkar. Respondent PIO represented by Shri Vivek Desai and then the matter was fixed on 27/3/2020 for furnishing information and filing reply of Respondent PIO. However due to the lockdown in view of Covid-19, the hearing could not be taken place hence fresh notices were issued to both the parties after the lockdown was lifted and the matter was then fixed on 25/6/2020 for furnishing information and filing reply.
7. In pursuant to the fresh notice ,the Appellant was present in person, the Respondent PIO opted to remain absent despite of

due service of notice . No reply came to be filed by Respondent and also failed to provide information. Hence I presume and hold that Respondent PIO have no say to be offered and the averments made by the appellant are not disputed by him . Hence the arguments of the Appellant were heard.

8. It is the contention of the Appellant that the Administrator of the Comunidade/PIO falls within the purview of the RTI Act, 2005 and that he can call for the records from the Comunidade and he is duty to furnish the information asked for under the RTI Act. It was further contended that the PIO deliberately has not provided him the information, which amounts to contempt of the provisions of the RTI Act. And he vehemently pressed for invoking penal provisions against the respondent.
9. I have scrutinise the records available in file, and also consider the submissions made by Appellant .
10. The RTI Act came into existence to provide fast relief as such the time limit is fixed to provide the information within 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. It is seen that as per the records the application dated 19/8/2019 was filed and received by the office of Respondent no. 1 on 19/8/2019. U/s 7(1) of the Act the PIO is required to respond the same within 30 days from the said date. The Respondent PIO have not placed on records and documentary evidence of having adhere to section 7 of RTI Act.
11. On perusal of the Application filed by the Appellant interms of section 6(1) it is seen that the information was sought only on two points which ought to be held by the Public Authority concerned herein.

12. The First Appellate Authority vide order dated 29/11/2019 had directed Respondent PIO to furnish the information to the Appellant. It is also not the case of PIO that the order of the First Appellate Authority was challenged by him or has complied the order of 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 nature were conveyed either to the first appellate authority nor to the appellant herein why he could not comply the said order in time. The Respondent PIO has not produced any documents on record of he having complied with the order of First Appellate Authority. The contention of the appellant that his RTI application was not responded within 30 days and PIO having failed to comply with the order dated 29/11/2019 have gone undisputed and unrebutted .The information still not furnished to the Appellant till date. There is an delay in furnishing information. Such an conduct by PIO is obstructing transparency and accountability appears to be suspicious and adamant vis-a-viz the intent of the act.
13. 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 intend of the Act.
14. Public authority must introspect that non furnishing of the correct or incomplete information lands the citizen before First Appellate Authority and also before this commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.

15. 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 and the same is still not provided .
16. This commission is aware of the practical difficulties faced by the PIOs. The officer of the public authority designated as PIOs have other duties also and the duties to be discharged by them as PIO is an additional duty. The dealing with the request for information is a time consuming process. Time and again this commission had directed the public authority to comply with section 4 of RTI Act so that public have minimum resort to the use of this Act to obtain information. It appears that the public authority concerned herein is not serious in implementing section 4 of RTI Act.
17. In the facts and circumstances of the present case, I find ends of justice will meet with following order ;

Order

- a) Appeal allowed.
- b) The Respondent PIO is directed to furnish the information, free of cost , to the Appellant herein as sought by him vide his RTI Application dated 19/8/2019, within 20 days from the date of receipt of this order.
- c) The Respondent PIO is hereby admonished and directed to be vigilant henceforth while dealing with the RTI matters and to strictly comply with the provisions of the Act. Any lapses on their part in future will be viewed seriously.
- c) In exercise of my powers conferred u/s 25(5) of RTI Act 2005 this Commission recommends that the Collector of South Goa at Margao shall issue instruction to the Respondent PIO to deal with the RTI matters appropriately in accordance with the provisions of the RTI Act and any lapses on the part of Respondent PIO be considered as dereliction of duties.

- d) The Public Authority concerned herein i.e the Administrator of Comunidade , South Goa at Margao-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.
- e) The copy of the order to be send to the Collector of South Goa, at Margao for information and necessary action.

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.