

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

Penalty 48 /2019
In
Appeal No.212/2019/SIC-I

Mr. Surendra S. Govekar,
R/o. H. No. 678/5, Soratto Waddo,
Anjuna, Bardez-Goa

..... Appellant

v/s

1. Public Information Officer (PIO),
The Secretary,
Village Panchayat Anjuna-Caisua,
Bardez-Goa.

2. First Appellate Authority (FAA),
Block Development Officer, Bardez,
Mapusa, Bardez-Goa

.....Respondents

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

Decided on: 13/02/2020

ORDER

1. The penalty proceedings have been initiated against the Respondent No. 1 PIO under section 20(1) and or 20(2) of RTI Act, 2005 for the contravention of section 7(1) of Right To Information Act, 2005, for not complying the order of First appellate authority (FAA) and delay in furnishing the information.
2. The full details of the case are mentioned in the main order dated 11/12/2019. However, the facts are reiterated in brief in order to appreciate the matter in its proper prospective.
3. A request was made by the appellant on 4/1/2019 for information on 26 points including inspection of records and had sought for the copies of the documents as listed therein in the said application. In pursuant to the letter dated 31/1/2019 bearing reference No. VP/ Anj-CAI/2018-19/3864 which was served upon him on 8/2/2019 by registered A.D., the appellant carried the inspection and identified the desired documents required by him despite of same as no information was given hence the first appeal was filed by the

appellant on 5/3/2019 and subsequently after filing the appeal appellant received the letter dated 1/3/2019 by registered post on 8/3/2019 directing him to deposit fee of Rs. 3864/- and pursuant to said letter appellant deposited charges on 13/3/2019 and on the same day in the evening section the respondent no. 1 PIO asked appellant to hand over the cash receipt and the said money was forcefully refunded to appellant which was accepted under protest. The first appellate authority after hearing both the parties vide order dated 6/5/2019 directed the Respondent PIO to furnish the information to the appellant within 10 days, from the date of the order in respect of RTI application, upon payment fee as intimated by respondent no. 1 vide letter dated 1/3/2019. The appellant made the grievance stating that the respondent PIO did not provide him the information with malafide intention even though directed by the First appellate authority (FAA). And therefore filed the second appeal on 8/7/2019 with this Commission in terms of section 19(3) of RTI Act, 2005. After hearing both the parties, the Commission vide order dated 11/12/2019 while disposing the Appeal No. 212/2019 came to the prima-facie finding that there was delay in furnishing information and that the respondent PIO did not act diligently while disposing off the request for information under the RTI Act and hence directed to issue showcause notice to the respondent PIO.

4. In view of the said order dated 11/12/2019 the proceedings stood converted into penalty proceeding.
5. Accordingly showcause notice was issued to PIO on 17/12/2019. In pursuant to showcause notice PIO, Shri Dharmendra Govekar was present on some dates of hearings who sought time to file reply to showcause notice .Ample opportunities were given to Respondent PIO to file his say despite of same no any say came to be filed by the Respondent PIO to showcasue notice issued by this commission, hence I presume and hold that the respondent PIO has no any say to be offered .

6. It appears from the say of the respondent PIO dated 25/9/2019 filed in the appeal proceedings bearing No. 212/2019 that Shri Dharmenda Govekar was officiating as PIO when the application was filed by the appellant herein on 4/1/2019 and when the order was passed by the first appellate authority on 6/5/2019 .
7. Though the application was responded by the Respondent no. 1 PIO interms of section 7(1) of RTI Act on 31/1/2019 however on perusal of the said reply it is seen that the appellant was called upon to do the inspection as per the point 25 of his application. The respondent PIO in the said reply has not furnished any information as sought by the appellant at point no.1 to 24 so also has not offered inspection as sought by the appellant at point no.26. Hence in my opinion, incomplete information was offered vide the above reply. It appears that the said reply was given in very casual manner.
8. The receipt no. 088 of Receipt Book No.1332 issued under the signature of Secretary shows that amount of Rs. 3864/- which was deposited by the appellant on 13/3/2019. The Respondent PIO is silent on reasons or the purpose of the refund of the said amount to the appellant on the same day itself neither have assigned any reasons for not furnishing the information despite of depositing the said fees .
9. The order was passed by the first appellate authority on 6/5/2019 directing to furnish the information within 10 days. The complete information only came to be provided to the appellant some where at the end of month November 2019 before this commission. Apparently there is delay in furnishing complete information which was available and existing in the records of public authority concerned herein.

10. The PIO also failed to show vis-a-vis any supporting documents as to how and why the delay in furnishing complete information was not deliberate and was not intentional.

11. The Hon'ble High Court of Punjab and Haryana, in Civil Writ Petition No. 14161 of 2009; Shaheed Kanshi Ram Memorial... V/s State Information Commission has held;

"As per provisions of the Act, Public Information Officer is supposed to supply correct information that too, in a time bound manner. Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference".

12. Yet in another case the Hon'ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission while maintaining the order of commission of imposing penalty on PIO has held;

"Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. **It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.**"

13. The Hon'ble Gujarat High Court in special civil Application No.8376 of 2010 case of Umesh M. Patel V/s State of Gujarat has held that Penalty can be imposed if First Appellate Authority order not complied. The relevant para 8 and 9 is reproduced herein.

“Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty.”

14. Hence according to the ratios laid down in the above judgment the PIO has to provide correct information in a time bound manner as contemplated under the RTI Act. In the present case the PIO has repeatedly failed to provide the information within time frame. Such a conduct and attitude of Respondent PIO appears to be suspicious vis-à-vis the intent of the RTI Act and is not in conformity with the provisions of the RTI Act.
15. There is a delay of approximately of 10 months in furnishing complete information. The PIO 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.
16. If the correct and timely information was provided to appellant it would have saved valuable time and hardship caused to the appellant herein in pursuing the said appeal before the different authorities. It is quite obvious that appellant has suffered lots of harassment and mental torture in seeking the information under the RTI Act which is denied to him. If the PIO has given prompt and correct information such harassment and detriment could have been avoided.

17. Considering the above conduct, I find that PIO has without reasonable cause repeatedly has failed to furnish information within time. Thus I am convinced and is of the opinion that this is fit case for imposing penalty on PIO. However since there is nothing on records that lapses on the part of Respondent PIO are persistent , a lenient view is taken in the present proceedings . Hence the following order:-

ORDER

- i. The Respondent No. 1 PIO Shri Dharmendra Govekar shall pay a amount of Rs.2000/- (Two thousand) as penalty for not complying the order of First appellate authority within stipulated time and for delay in furnishing the information.
- ii. Aforesaid total amount payable as penalty shall be deducted from the salary of PIO and the penalty amount shall be credited to the Government treasury at North Goa.
- iii. Copy of this order should be sent to the Director, Directorate of Panchayat, at Panajim and Director of accounts, North-Goa, Panajim for information and implementation.

With the above directions proceedings stands closed.

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