

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 09/2020

Shri Nixon L. Furtado,
H No. 51, Copelwado,
Sernabatim, Salcete Goa, 403 708

.....Appellant

V/s

Public Information Officer,
Office of the Village Panchayat of
Colva, Salcete Goa. 403708

.....Respondent

Filed on : 31/12/2019

Decided on : 27/07/2021

Relevant dates emerging from appeal:

RTI application filed on	: 25/10/2019
PIO replied on	: Nil
First appeal filed on	: 29/11/2019
FAA order passed on	: 23/12/2019
Second appeal received on	: 31/12/2019

ORDER

1. The Appellant Shri. Nixon L. Furtado, R/o, Sernabatim Salcete Goa vide his application dated 25/10/2019 under Right to Information Act, 2005 (RTI Act, 2005) had sought information from Respondent, Public Information Officer (PIO), Office of the Village Panchayat of Colva, Salcete-Goa pertaining to following three points:-

- a) The application forwarded by Smt. Janice Furtado requesting for NOC to operate movable cabin / gada/stall to sell clothes in the Village of Sernabatim or in the vicinity of Colva Village.
- b) Copies of the documents furnished/annexed to her application.

- c) Whether any NOC is issued to her family earlier. If issued, provide the copy of the same.
2. It is the contention of the Appellant that the PIO did not reply within the stipulated period of 30 days. Therefore the Appellant filed first Appeal before the First Appellate Authority (FAA) on 29/11/2019. FAA issued notices to the Appellant and the Respondent, but the Respondent PIO remained absent for all hearings before the FAA. The FAA passed order dated 23/12/2019 directing the PIO to furnish information to the Appellant free of cost within 10 days.
3. It is the contention of the Appellant that the Respondent PIO failed to furnish the information even after the directions by the FAA. Being aggrieved by the said inaction of the Respondent PIO, the Appellant approached the Information Commission in the form of Second Appeal dated 31/12/2019. The Appellant prayed for :-
- a)** The Respondent be directed to furnish information as requested for vide letter dated 25/10/2019.
 - b)** Penalty be imposed as per relevant section of the RTI Act, against the Respondent for malafidely denying and blocking the information.
 - c)** Necessary action be initiated against the Respondent for wasting the time of the Court and also for putting the Appellant into difficulties, waste of time and money and for mental torture.
 - d)** That such order that may be necessary in the circumstances of the case be passed.
4. Notices were issued to the concerned parties and the matter was taken up for hearing. The Appellant Nixon L. Furtado was represented by his brother Shri. Nevil L. Furtado under authority letter. Respondent, the then PIO Shri. Amol Tilve appeared only

during the First hearing dated 18/02/2020 and preferred not to appear on all subsequent dates.

5. Shri. Rajendra Naik, present PIO and Secretary of Village Panchayat Colva conveyed vide letter received in the Commission Office on 18/03/2021 that the notice of hearing in this matter has been forwarded to Shri. Amol Tilve, the then PIO and also presented copy of the acknowledgement.
6. This Commission received a letter dated 18/03/2021 signed by Shri. Amol Tilve, requesting the Commission to give a common date for hearing of number of Appeals pending against the Respondent. The request was granted and common date was allotted.
7. However, inspite of getting a common date for the subsequent hearing, the Respondent Shri. Amol Tilve preferred to remain absent. Also, did not file reply to defend his action.
8. It is seen from the records that the Commission had received a letter dated 28/05/2020 from Respondent PIO alongwith some documents, stating due to covid lockdown he could not submit information and now he is furnishing the information sought by the Appellant. However, it was realized that the said information does not pertain to Appeal 09/2020. There is no more submission /reply/from the Respondent PIO apart from this letter alongwith some documents. Therefore, it is aptly clear that the PIO has neither furnished information to the Appellant, nor adhered to the direction of the First Appellate Authority. The Respondent has not furnished the information before this Commission too. Infact, the then PIO has failed to even appear before this Commission except once.
9. Repeated opportunities were given to the Respondent PIO to appear and file his reply before the Commission. However, the Respondent preferred to remain absent continuously. On perusing the RTI

application of the Appellant dated 25/10/2019 it is seen that the Appellant has sought for the information which is in public domain. The Respondent PIO has also not claimed that the same is exempted from disclosure as provided under section 8 of the RTI Act, 2005. Therefore, the Appellant is entitled to receive the said information.

10. As per the records it is clear that the Respondent PIO did not bother to reply within 30 days from the date of application. It appears that the Order of the FAA was also not complied by the Respondent PIO. The PIO remained absent before the FAA during the hearing. The same is also true in the present case, the PIO failed to appear and file any reply before the Commission.
11. The PIO must introspect, as the non furnishing of correct and complete information lands the citizen before the first appellate authority and also before this commission, resulting into unnecessary harassment of the common man which is socially abhorring and legally impermissible.
12. From the conduct of the PIO it can be clearly inferred that the PIO has no concern to his obligation under the RTI Act and 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.
13. From the above gesture of PIO, I prima facie find that the entire conduct of PIO is not in consonance with the RTI act. Such a lapse on the 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 non compliance of order of first appellate authority and for delay in furnishing the information.
- 14.** I therefore dispose the present Appeal with following Order:-

- a) The Appeal is allowed.
- b) The present PIO, V. P. Secretary, V. P. Colva is directed to comply with the order passed by the First Appellate Authority dated 23/12/2019 and provide the remaining information to the Appellant sought by him vide application dated 25/10/2019, within 15 days from the receipt of this Order, free of cost.
- c) Issue notice to the then PIO Shri. Amol Tilve and the then PIO is further directed to showcause as to why penalty as provided u/s 20 (1) and/or 20(2) of RTI Act, 2005 should not be imposed against him.
- d) In case the then PIO is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith full name and present address of the then PIO.
- e) The then PIO Shri. Amol Tilve is hereby directed to remain present before this Commission on 30th August, 2021 at 10.30 a.m. alongwith the reply to the showcause notice. The Registry to initiate penalty proceedings.

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.

Sd/-

(Sanjay N. Dhavalikar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa