

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

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Appeal No.49/2021/SCIC

Shri. Shrikant V. Gaonker,
Padmavati Towers, SF-5,
2nd floor, 18th June Road,
Panaji Goa. 403511.

.....Appellant

V/S

1. Public Information Officer,
Office of the Assistant Registrar of Co-operative Societies (HQ),
Sahakar Sankul, 4th & 5th Floor,
EDC Complex, Patto, Panaji Goa.

2. The First Appellate Authority,
Office of the Assistant Registrar of Co-operative Societies (HQ),
Sahakar Sankul, 4th & 5th Floor,
EDC Complex, Patto, Panaji Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 25/02/2021

Decided on: 25/11/2021

FACTS IN BRIEF

1. The Appellant herein by his application dated 21/09/2020 under sec 6(1) of the Right to Information Act, 2005 (Act for short) addressed to Respondent No. 1, the Public Information Officer (PIO), the Asst Registrar of Co-op. Societies, Panaji Goa, regarding proposed Registration of Saras Co-op Housing Society Ltd.
2. The said application was replied by the PIO on 23/10/2020, requesting the Appellant to visit the office of PIO on any working day, during office hours to conduct the inspection of file and collect the information, with regards to point No. 1, 3 & 6 of the application.

3. According to Appellant, since the required information has not been furnished within the stipulated time, considering the same as deemed refusal, Appellant preferred first appeal before the Dy. Registrar of Co-op Societies, Panaji being the First Appellate Authority (FAA).
4. Since the FAA failed to pass any order in the first appeal within stipulated time, he preferred this second appeal under sec 19(3) of the Act before the Commission.
5. Parties were notified, pursuant to which PIO appeared and filed his reply on 05/07/2021, FAA appeared and filed his written argument on 05/10/2021.
6. Perused the pleadings, written arguments of the parties, scrutinised the documents and also heard the oral arguments.
7. According to Appellant, PIO has failed to furnish the information within stipulated period of 30 days and instead vide letter dated 23/10/2020 directed the Appellant to visit the office of PIO to collect the information by payment of requisite fee, however he has not calculated and inform the exact amount of fees to be deposited as provided under sec 7(3) of the Act.

According to him he visited the office of PIO four times to collect the information. However the PIO did not provide the information. He also submitted that he is a senior citizen and it is inappropriate on the part of PIO to force the Appellant to visit the office of PIO to collect the information during this Covid Pandemic time.

Further according to Appellant, the FAA also acted casually and in most negligent manner and since the FAA is not at all interested in first appeal proceeding he protested on 4th date of hearing and made endorsement on Roznama sheet that matter may be decided ex-parte.

8. According to PIO he replied to the RTI application on 23/10/2020, within stipulated time period and requested the Appellant to collect the available information, he also offered for inspection of file. He also submitted that he has complied with the order of FAA and provided all information available with him by a letter dated 15/04/2021.
9. According to FAA, on the date of first hearing i.e on 01/12/2020 he was busy in attending the meeting with the Chairman of Goa Commission for Schedule Caste and Schedule Tribe regarding Tribal sub-plan and matter was therefore adjourned and fixed for hearing on 15/12/2020 and for subsequent hearings.

Further according to him, due to COVID-19 Pandemic situation in the state he has granted ample opportunity to the Appellant to put his defence and finally on 23/03/2021 he decided the matter.

He also produced on record the copy of Roznama and order dated 23/03/2021.

10. The Entire proceeding is suffered from multiple anomalies and infirmity. The whole exercise in the proceeding starts by the RTI application dated 21/09/2020 by which the Appellant sought information pertaining to action taken by Registrar of Co-operative Societies in respect of complaint lodged by him dated 27/06/2019, 27/12/2019 and 07/02/2020, however to substantiate his pleadings he did not produce on record the copy of the said complaints.

According to PIO the alleged complaint was lodged before some other office and not before this public authority. The above said fact has not been denied by the Appellant, that indicates that taking the advantage of RTI Act, Appellant seeking information of action taken report from the office of PIO by lodging his complaint before some other authority.

11. On perusal of the response dated 23/10/2020 under sec 7(1) of the Act, it is seen that in respect of information at point No. 1,3 and 6, PIO has requested the Appellant to visit any working day during the office hours to collect the information.

In respect to information at point No. 7, the same has been furnished and with respect to point No. 8, applicant is requested to visit the office to inspect the concern file.

12. Now the dispute remains in respect of the information at point No. 2,4 and 5. As per the letter dated 15/04/2021, the alleged complaint dated 27/06/2019 and 01/09/2020 was addressed by the Appellant to the office of Assistant Registrar Co-operative Societies, Central Zone and copy of the said complaint was marked in the office of PIO. Since the complaint was lodged before the Assistant Registrar of Co-operative Societies, as per the wisdom of the office of PIO they concluded that no action was warranted by the office of PIO as it would lead to multiplicity of action and therefore no any steps were initiated and same was filed for office records. As the said information is not at all in existence due to non generation, they replied accordingly to the Appellant.

13. The Appellant alleged that, the FAA has pronounced the order on 23/03/2021 and directed the PIO to furnish the information within seven days, however the PIO took another 42 days to dispatch reply and purported information. According to him he received the same by Registered Post AD on 03/05/2021.

He also pointed out that in the said reply which was received by him on 03/05/2021, in the last para the Appellant was specifically requested to carry out inspection of file on 30/04/2021 at 11:00 am. Therefore it is wilful default on the part of PIO to

disseminate the information. This fact is not rebutted by PIO in his written arguments. However he mentioned that delay has been caused due to COVID-19 Pandemic situation.

14. As far as information at point No. 2,4 and 5 is concerned, the reply of the PIO is not in consonance with sec 6(3) of the Act. In case, any application or part thereof is not related to the public authority, then it should be transferred to the concerned PIO who is more closely related to it. Such a transfer is to be made within 5 days from the receipt of the application. The aim and objective of the Act is to facilitate the seeker to have the information from public authorities. The PIO ought to have forwarded the said request to Assistant Registrar of Co-operative Societies, Central Zone, Panaji Goa to reply the part of RTI application.
15. Be that as it may, there is also delay in deciding the first appeal by FAA. On meticulous reading of Roznama which is produced on record, it indicates that the same is tempered with white ink which is inappropriate from the part of public authority. Entire approach of FAA in relation to exercise and functions under the Act appears to be casual and not in conformity with the intent and spirit of law.
16. It is the version of FAA that he has to attend the meeting with Chairman of Schedule Caste and Schedule Tribe Commission or that he is holding additional charge in many Departments and hence the delay in deciding the appeal. Had one to accept this as a ground to deal with RTI Act, the entire spirit and intent of the Act of furnishing the information in time, would be frustrated. FAA cannot take his own sweet time to deal with RTI appeals. The appeal under the Act should attract priority as provided in the Act itself. Such task is part of his duties as FAA and any lapse in performance of said duties is contrary to the service conditions governing him.

17. In the circumstances, Commission finds that, Appellant is entitled for inspection of relevant file, besides entitled for the information in respect of point No. 2, 4 and 5 which is held by other section of his department or held by other authorities. The request of the Appellant is required to be transferred to such authorities under section 6(3) of the Act.
18. Grievance of the Appellant is that there is a delay in deciding the first appeal and information has been denied to him and being so he prayed for imposition of penalty and also for awarding him compensation. However considering the Pandemic situation I am unable to impose penalty in view of Supreme Court Judgement.
19. The Hon'ble Supreme Court dated 08/03/2021 and order dated 23/09/2021 [**Suo Motu Writ Petition No. 3/2020 and M.Appln. No. 665/2021**] has held that:-

"1. Due to the outbreak of COVID-19 pandemic in March, 2020, this Court took Suo Motu cognizance of the difficulties that might be faced by the litigants in filling petitions/applications/suits/appeals/ all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and /or State). On 23/03/2020, this Court directed extension of the period of limitation in all proceedings before the Court / Tribunals including this Court w.e.f 15/03/2020 till further orders.

3. Thereafter, there was a second surge in COVID-19 cases which had a devastating and debilitating effect. The Supreme Court Advocates on Record Association (SCAORA) intervened in the Suo Motu proceedings by

filing Miscellaneous Application No.665 of 2021 seeking restoration of the order dated 23.03.2020. Acceding to the request made by SCAORA, this Court passed the following order on 27.04.2021:

"We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant–public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders. It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings. We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities."

In view of above ratio laid down by Apex Court delay in proceeding at all levels are condoned, therefore the appeal stand disposed with the following:

ORDER

- The appeal is partly allowed.
- PIO is hereby directed to give the inspection of relevant file to the Appellant within **FIFTEEN DAYS** as per his application dated 21/09/2020
- The PIO shall transfer the request of information at point No. 2, 4 and 5 to the authority holding it, within 5 days from the receipt of this order to furnish information directly to the Appellant..
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner