

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 66/2020

Shri Nigel Gonsalves,
5, Sorab House, Khambatta Lane,
Opp. KJBU P.O.
Byculla (E), Mumbai 400 027

.....Appellant

V/s

1. Public Information Officer (PIO),
Office of the Asst. Registrar of Cooperative Societies,
Sahakar Sankul Building,
4th floor, Patto, Panaji-Goa

2. The First Appellate Authority (FAA),
Office of the Registrar of Cooperative Societies,
Sahakar Sankul Building,
4th floor, Patto, Patto Plaza, Panaji-Goa

.....Respondents

Filed on : 16/12/2019

Decided on : 06/08/2021

Relevant dates emerging from appeal:

RTI application filed on	: 29/06/2019
PIO replied on	: 23/07/2019
First appeal filed on	: 17/08/2019
FAA order passed on	: 30/09/2020
Second appeal received on	: 16/12/2019

ORDER

1. Appellant Shri. Nigel Gonsalves R/o. Khambatta lane, Byculla (East), Mumbai, vide his application dated 29/06/2019 under the Right to Information Act, 2005 (RTI Act, 2005) had sought information on various points from Respondent No. 1, Public Information Officer (PIO), Office of the Registrar of Cooperative Societies Sahakar Sankul Building, Panaji.

2. It is the contention of the Appellant that Respondent No. 1 PIO sent a reply dated 23/07/2019. Appellant, being not satisfied with the reply of the PIO, filed first Appeal dated 17/08/2019 before the first Appellate Authority (FAA), O/o. The Registrar of Cooperative Societies, Panaji
3. It is the contention of the Appellant that the Appellant did not receive order of the FAA, and therefore the Appellant filed second Appeal dated 16/12/2019 before the Information Commission. The Appellant prayed for information, penalty on PIO and compensation to the Appellant.
4. After notifying the concerned parties, matter was taken up for hearing. Pursuant to the notice of the Commission the Appellant remained present in person initially, but subsequently preferred not to remain present. On the other hand the Respondent No. 1 PIO and Respondent No. 2 First Appellate Authority (FAA) were absent initially.
5. The matter could not be heard for some period due to lock down declared by the Government and also the then Commissioner demitted the Office. After joining of the new Commissioner, fresh notice was issued and matter was taken up for hearing on 24/03/2021. The present PIO Shri. Avit Naik appeared before the Commission and undertook to file submission regarding information sought by the Appellant.
6. Representatives of PIO and FAA appeared before the Commission during the hearing dated 06/07/2021 and furnished copies of documents sought by the Appellant vide RTI application dated 29/06/2019 alongwith the copy of covering letter sent to the Appellant by the PIO.

7. The Commission has perused Appeal memo of the Appellant and reply and submissions of the Respondents. The Commission has noted that the available information has been sent to the Appellant and also a copy of the said information is filed before the Commission.
8. However, the Commission has observed that the Respondent No. 1 PIO initially did not furnish the information within stipulated period of 30 days. Also the Respondent No. 2 FAA did not pass Order on the first Appeal within the stipulated period as mentioned in the RTI Act, 2005. Rather the FAA took more than 13 months to pass the order, directing PIO to furnish the information.
9. This approach of the PIO and the FAA is deplorable, not in consonance with the spirit of RTI Act, 2005. However, the PIO later made attempts to compile and furnish information, though beyond the stipulated period. If the circumstances considered cumulatively and the law laid down by the Hon'ble Supreme Court in the case of A. A. Parulekar V/s Goa State Information Commission is applied, then it does appear that there is no malafide on the part of the PIO and there is no justification for imposing penalty under section 20 upon the PIO.
10. Respondent No. 2 FAA has stated in his order dated 30th September, 2020 that the case was adjourned several times as Appellant failed to appear, and also in view of Govt. Circulars the case was adjourned and therefore the order on first Appeal was delayed. However, FAA failed to appreciate neither the RTI, Act nor the rules framed under the Act, make it mandatory for the Appellant to remain present and the onus to prove lies on the PIO. Nevertheless, FAA in the said order directed PIO to furnish the information as sought by the Appellant.

11. And now since the information has been furnished to the Appellant by the PIO, the prayer of Appellant for information becomes infructuous and no more intervention of this Commission is required in terms of furnishing of the information.

12. In view of this discussion and in the above mentioned circumstances :-

a) The Appeal is disposed as dismissed .

b) Respondent No. 1 PIO and Respondent No. 2 FAA are directed to be more deligent, with due respect to the provisions of the RTI Act, 2005 while dealing with the RTI application.

Appeal proceedings stands closed.

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