

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 71/2020

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

.....Appellant

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

.....Respondent

Filed on : 02/03/2020

Decided on : 27/07/2021

Relevant dates emerging from appeal:

RTI application filed on	: 12/11/2019
PIO replied on	: Nil
First appeal filed on	: 06/01/2020
FAA order passed on	: 04/02/2020
Second appeal received on	: 02/03/2020

ORDER

1. The Appellant Shri. Nixon L. Furtado, R/o, Sernabatim Salcete-Goa, vide his application dated 12/11/2019 under Right to Information Act, 2005 (RTI Act, 2005) had sought information from Respondent, Public Information Officer (PIO), Secretary, Village Panchayat of Colva Salcete-Goa pertaining to following five points:-
 - a. Copy of minutes of the meeting and resolution dated 08.08.2019 No. 4(4) rejecting the application.
 - b. With reference to the applications forwarded by Janice Furtado, r/o. Ambeaxir, copy of minutes of the meeting and resolution if the NOC is granted to her.

c. With reference to the application of Smt. Jameba Furtado, R/o. House No. 93, Ambeaxir:-

(i) Copy of application furnished by her requesting for NOC for Hand Cart/Gadda alongwith documents furnished by her.

(ii) Copies of minutes of the meeting and resolution of the NOC is granted.

d. With reference to the application forwarded by Shri. Joao Inacio Furtado, R/o. Ambeaxir to the Village Panchayat of Colva:-

(i) Copy of the application along with all the documents annexed to it.

(ii) Copy of the NOC if granted, alongwith the minutes of the meeting and resolution granting/approving the NOC.

e) With reference to the application dated 17.07.2019 forwarded by Shri. Pio Furtado, R/o. Ambeaxir and subsequent resolution taken under No. 5 (1):-

(i) The resolution/minutes of the meeting to issue a new House No. in Survey No. 72/3.

(ii) Receipt of payment towards tax in reference to the new house No. allotted to him.

(iii) Copy of site inspection report carried by the Secretary alongwith the panch members in reference to the house in survey No. 72/3 in Ambeaxir Sernabatim, Salcete-Goa.

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 06/01/2020. 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 04/02/2020 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 02/03/2020. The Appellant prayed for :-
 - a) The Respondent be directed to furnish the information.
 - b) That necessary action be initiated against the Public Information Officer of the Village Panchayat of Colva for defying to furnish any information sought from his office.
 - c) That penalty proceeding be initiated against the Respondent and a fine of Rs. 250/- per day be imposed on him for denying the information to the Appellant thereby violating section 7(1) of the Right to Information Act, 2005.
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 preferred not to appear before the Commission throughout the entire proceedings.
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. 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 12/11/2019 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.
9. 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 file any reply before the Commission.
10. 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 citizen which is socially abhorring and legally impermissible.
11. 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 intent of the Act.
12. From the above gesture of PIO, I prima facie find that the entire conduct of PIO is not in consonance with the RTI Act and smells malafide. 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.

13. 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 04/02/2020 and to provide the information to the Appellant sought by him vide application dated 12/11/2019, 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 is directed 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