

## GOA STATE INFORMATION COMMISSION

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

### **Appeal No. 78/2021**

Shri Mancio Joaquim Monteiro,  
St. Mary's Colony,  
Road 1, Miramar, Goa Pin 403001

.....Appellant

**V/s**

1. Public Information Officer/Secretary,  
Village Panchayat Santo Estevam,  
Santo Estevam, Illhas, Goa, 403106
  2. Block Development Officer (BDO Tiswadi), FAA,  
4<sup>th</sup> lift, 6<sup>th</sup> floor, Junta House, Panaji-Goa,  
Pin: 403001
- .....Respondents

Filed on : 01/04/2021

Decided on : 25/11/2021

#### **Relevant dates emerging from appeal:**

|                           |              |
|---------------------------|--------------|
| RTI application filed on  | : 14/12/2020 |
| PIO replied on            | : 08/01/2021 |
| First appeal filed on     | : 08/02/2021 |
| FAA order passed on       | : Nil        |
| Second appeal received on | : 01/04/2021 |

### **ORDER**

- 1) The second appeal filed under section 19 (3) of the Right to Information Act, 2005 (hereinafter to be referred as the Act) by Appellant Shri Mancio Joaquim Monteiro, resident of Miramar Goa, against respondent No.1 Public Information Officer (PIO), Secretary, Village Panchayat Santo Estevam and Respondent No. 2 First Appellate Authority (FAA), Block Development Officer, Tiswadi, Panaji Goa, came before this Commission on 01/04/2021. Appellant, aggrieved by non furnishing of the information by PIO and no hearing given by

FAA, filed this appeal with various prayers including complete information, penalty on PIO and compensation to Appellant.

- 2) The brief details leading to second appeal, as contended by Appellant are that vide application dated 14/12/2020 he sought information on 11 points from PIO. He was asked vide letter dated 08/01/2021, signed by PIO to pay Rs. 4652/- and collect the information. The Appellant deposited the amount of Rs. 4652/- on 11/01/2021, however he was not furnished the information. Thereafter he wrote a letter to FAA, regarding non receipt of information from PIO. According to him that said letter should have been heard as first appeal by FAA. Instead of hearing the appeal, FAA sent a memorandum dated 11/02/2021 to PIO directing him to take necessary action as per provisions of law and submit the compliance report within 15 days. Aggrieved by the action of PIO and FAA, the Appellant preferred second appeal before this Commission.
- 3) The appeal was registered and notice dated 09/04/2021 was issued to the concerned parties. Adv. Sanjana Gaonkar and Adv. Sadanand Vaingankar appeared on behalf of PIO, whereas Appellant appeared in person. Later Appellant filed written submission dated 01/09/2021 and 05/10/2021 and 21/10/2021.
- 4) It is seen from the records that the Appellant has been appearing regularly, however PIO has never appeared in person nor filed any reply before the Commission. Adv. Sanjana Gaonkar and Adv. Sadanand Vaingankar appeared once on behalf of PIO, however no reply / submission is filed by them except Wakalatnama. Adv. Vaingankar stated on 19/08/2021 that the information is

ready and requested Appellant to visit PIO's office and collect the same. Appellant submits that he has visited PIO's office more than once. However the information has not been furnished to him.

- 5) The Appellant contends that the PIO has not given details of this amount as required under section 7 (3) (a). That the Appellant visited PIO's office on 05/10/2021 as per the direction of the Commission, wherein PIO's advocate had submitted that the information is ready and will be furnished to Appellant by the PIO on 5/10/2021. However PIO did not furnish the information stating the peon is not available to handover the document to Appellant. The information was not handed over and the Appellant had to return without the information. That the PIO is deliberately causing mental harassment and monetary loss by making Appellant visit his office time and again.
- 6) Upon perusal of records of this case, it is seen that the PIO asked Appellant to pay Rs. 4652/- without furnishing detail break up of how he arrived at this amount. Appellant paid the amount and PIO issued receipt, however the information was not furnished. Appellant has made number of visits to PIO's office but to no success. It is not just mala fide but criminal attitude of PIO to ask Appellant to pay certain amount to get the information and not furnish the same even months after receiving the payment. PIO Shri. ShirishKumar Tari has failed to respect provisions and spirit of the Act and ultimately has failed to discharge responsibility bestowed upon him by the Act.

7) Section 7 (1) of the Act states that:-

The PIO on receipt of a request under section 6 shall, as expeditiously as possible, and on any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in section 8 and 9.

Section 7 (3) of the Act states that :-

Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the PIO as the case may be, shall send intimation to the person making the request , giving-

- (a) The details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub section (1), requesting him to deposit that fees and the period intervening between the dispatch of the said information and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub section.

- 8) In this case, it is seen that PIO received application on 14/12/2020 and he replied vide letter dated 08/01/2021 asking Appellant to pay Rs. 4652/-. The said letter also states that "after depositing the said amount your information will be issued".

Public Information Officer (PIO) has not given details of fees as required under section 7 (3) (a) of the Act, inspite of that Appellant paid the amount mentioned by PIO, receipt was issued to him, Appellant visited PIO's office on number of occasions, he was told that his information is ready, however it was not furnished to him. The PIO neither furnished the information before this Commission.

9) Hon'ble High court of Delhi in writ petition (c) 3845/ 2007 in the case of Mujidur Rehman V/s Central Information Commission has held :-

*" Information seekers are to be furnished what they ask for, unless the Act prohibit disclosure; they are not to be driven away through sheer inaction of 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 has penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy".*

10. It is quite obvious that Appellant has suffered harassment and mental agony in seeking the information and in pursuing the matter over a long period. Such a conduct of PIO is obstructing transparency and accountability, appears to be suspicious and adamant vis-a-vis intent of the Act. Hence such an Act on the part of PIO is deplorable and deserves penal action under section 20 (1) and / or 20 (2) of the Act. However the Commission finds it appropriate to call explanation from him before imposing such penalty.

11. It is seen from the records that the Appellant, upon non receipt of information from PIO, wrote a letter dated 08/02/2021 to FAA, requesting him direct PIO to furnish the information. The Appellant has not filed this letter as first appeal, however, the FAA, respecting the spirit of the Act should have guided the Appellant to file first appeal or should have treated the said letter as a first appeal. Instead, he sent a memorandum dated 11/02/2021 asking PIO to take necessary action as per provisions of the law. Appellant sent reminder letter dated 23/02/2021 alongwith enclosures to FAA

providing the details of the matter. However FAA did not entertain the same. The Commission directs FAA to treat matters diligently pertaining to the Act including correspondence, diligently.

12. In the light of the above discussion, the appeal is disposed with the following order:-

a) The PIO is directed to furnish the information sought by the Appellant vide application dated 14/12/2020, within 7 days from the date of receipt of this order, free of cost.

b) The PIO is directed to refund Rs.4652/- received from Appellant vide receipt No. 075 dated 25/01/2021, within 7 days from the date of receipt of this order.

c) Issue notice to the PIO, Shri. Shirish Kumar Tari, and the PIO is further directed to show cause as to why penalty under section 20 (1) and / or 20 (2) of the Act should not be imposed against him.

d) In case the then PIO, is transferred, the present PIO shall serve this order along with the notice to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, along with full name and present address of the then PIO.

e) The PIO is hereby directed to remain present before this Commission on 17/12/2021 at 10.30 a.m. along with the reply to the show cause notice. The Registrar is directed to initiate penalty proceeding.

f) All other prayers are rejected.

Proceeding stand 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

KK/-