

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 80/2020/SIC-I

Shri Santana Piedade Afonso,
H. No. 263, Comba Central,
P.O. Cuncolim, Salcete Goa 403602

..... Appellant

v/s

1. Shri Amol Tilve,
Public Information Officer,
Village Panchayat of Colva
(Sernabatim-Vanelim-Colva-Gandaulim),
Colva, Salcete Goa.

2. Shri Amitesh Shirvoikar,
First Appellate Authority,
Block Development Officer – I,
Office of the BDO, 2nd floor,
Mathany Saldanha Administrative Complex,
Margao Goa.

..... Respondents

Filed on : 04/03/2020

Decided on : 24/08/2021

Relevant dates emerging from appeal:

RTI application filed on	: 27/09/2019
PIO replied on	: Nil
First appeal filed on	: 29/11/2019
FAA order passed on	: 07/01/2020
Second appeal received on	: 04/03/2020

ORDER

1. The Second Appeal filed by the Appellant Santana Piedade Afonso, resident of Cuncolim Salcete Goa, under section 19(3) of the Right to Information Act, 2005 (RTI Act) against Respondent No. 1 Public Information Officer (PIO), Secretary, Village Panchayat, Colva and Respondent No. 2 First Appellate Authority (FAA), Block Development Officer (BDO), Margao Goa, came before this Commission on 04/03/2020.
2. Brief facts leading to the Second Appeal as contended by the Appellant are that:-

- (a) The Appellant vide application dated 27/09/2019 sought from the PIO, information on various points including illegal construction of structures, compound walls, rooms, shops commercial cum residential buildings, power laundries, garages, hotels, shacks etc. and also regarding names, address and other details of the Village Panchayat members, master development plan of the Village Colva, trade licences issued, construction licenses issued, occupancy certificates issued etc. along with various other details related to the Village Panchayat of Colva (Senabatim-Vanelim-Colva-Gandaulim) .
 - (b) The PIO failed to reply within the stipulated period. The Appellant made several phone calls to the PIO on his mobile number. The PIO promised to furnish the information through Registered Post. However, the Appellant did not receive any information within the stipulated period.
 - (c) The Appellant filed first Appeal dated 29/11/2019 before the FAA. The FAA after hearing the matter passed the order dated 07/01/2020 directing the PIO to provide information.
 - (d) Even after the order of FAA the PIO did not furnish information. Being aggrieved, the Appellant preferred Second Appeal dated 04/03/2020 before the Goa State Information Commission, praying for information as per his application dated 27/09/2019 on point number No. a) (i), (ii), (iii) (1) to (26), and c), inspection of records, penalty under section 20 etc.
3. Pursuant to notice, matter was taken up for hearing, and Appellant appeared before the Commission. The FAA also appeared and sought exemption from the Appeal vide reply submitted on 29/06/2020. The PIO initially remained absent and later filed reply dated 14/08/2020. Thereafter, PIO furnished part information to the Appellant during

the proceedings. The Appellant filed written arguments dated 31/08/2020 and another submissions on 18/11/2020.

4. The Commission has perused all the submissions including replies, rejoinders and written arguments of the Appellant and Respondents. After careful perusal, the Commission has arrived at following findings:-

a) The PIO did not respond to the RTI application of the Appellant within the stipulated period of 30 days.

b) The information sought by the Appellant is bulky and the Appellant has not specified period for which the information sought. The FAA while passing the order dated 07/01/2020, requested the Appellant to furnish period from which the information is sought and, accordingly directed the PIO to furnish the information within 15 days. However, the records shows that the Appellant did not furnish the period for which the information is sought.

c) On the other hand, the PIO attempted to furnish some information from his office. The information sought by the Appellant is indeed bulky and it appears from the RTI application dated 27/09/2019 that the Appellant is seeking the information from the date of the inception of the Village Panchayat. However, neither did the PIO seek clarification from the Appellant regarding the period nor did he seek more time to furnish the information. On the contrary, he preferred to neglect the RTI application during the stipulated period of 30 days.

d) From the clarification dated 12/10/2020 received in the registry from the Appellant, it appears that most of the information has been furnished to him and the Appellant is insisting on getting the remaining information which is his

statutory right under the RTI Act. However, the Appellant should have furnished the period for which the information is sought .

5. It is seen from the RTI application of the Appellant that the information sought by him is on various points and no specific period is mentioned in the Application. In a similar matter, in the case of Pankaj Khanna V/s Hindustan Petroleum Corporation Ltd. 10/IC (a) /2006 the Central Information Commission has directed the Appellant to specify and ask for the relevant documents that he needs for his effective defense in the matter.
6. Honourable High Court of Bombay at Nagpur, in the matter of State Information Commission V/s Tushar Dhananjay Mandlekar, LPA No. 276/2012 in writ petition No. 3818/2010 (D) dated 30/07/2012 has observed :-

“It is apparent from a reading of what is stated above that instead of seeking information on some specific issues, the Respondent sought general information on scores of matters. The application is vague and the application does not make it clear to the Information Officer as to what information is actually sought by the Respondent from the Officer. It was literally impossible for the Appellants as pointed by the learned Assistant Government Pleader, to supply the entire information sought by the Respondent to the Respondent within the period of 30 days.”

The same judgment also states:-

“the principal of lex non cogit ad impossibilia is clearly applicable to the facts of the case. Law doesnot compel the person to do that what is impossible. In the facts of the present case we feel that it was impossible for the Appellant No. 2 to supply the information which ran into thousands of pages to the Respondents within the period of 30 days, as those pages were not readily available with the

Respondents on the day the Application was filed and the Officers were required to search and collect the information which was required to be supplied to the Applicant."

7. As per the ratio laid down in the above orders by the Central Information Commission, Hon'ble High Court of Bombay at Nagpur it is clear that the application must not be vague, and must also specify the details, to a large extent to make it practical for the PIO to furnish information. In the present matter, the detail would include "period for which the information is sought." All in all, the application must have enough clarity for the PIO to deliver information in practical manner.
8. The Hon'ble High Court of Bombay, Goa bench at Panaji in a writ petition No. 205/2007, Shri. A. A. Parulekar V/s Goa State Information Commission has observed:-

"The Order of Penalty for failure is akin to action under Criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."

9. And therefore, given this ratio, as laid down by the Hon'ble High Court of Bombay at Goa no malafide can be attributed to the PIO. However, Appellants right to seek complete information must not be denied
10. In the circumstances mentioned above the Appeal is disposed with the following Order:-
 - a) Order dated 07/01/2020 of the First Appellate Authority, Block Development Officer, Margao is upheld.
 - b) Present PIO of the Village Panchayat Colva is directed to facilitate inspection to the Appellant within 10 days of the receipt of this

Order, and furnish copy of the documents sought by the Appellant with reference to the RTI application dated 27/09/2019, within 10 days from the date of inspection, free of cost.

- c) The Appellant is directed to furnish the specific period for which the information is required, to the present PIO, before undertaking inspection of documents and accordingly the PIO, is directed to make relevant documents /files available for inspection to the Appellant.
- d) The then PIO, Village Panchayat Colva is directed to attend RTI matters more diligently. The Registry is directed to send the copy of the order to the then PIO through the present PIO, Secretary Village Panchayat Colva, and the present PIO is directed to forward the same to the then PIO and furnish the acknowledgement to the Commission within 20 days of the receipt of this order.

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