

# GOA STATE INFORMATION COMMISSION

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

## **Appeal No. 02/2021/SIC**

Shri Premanand Ram Naik,  
H. No. 64, Nagzar, Curti, Ponda Goa .....Appellant

**V/s.**

Public Information Officer,  
Mamlatdar of Ponda,  
Office of Mamlatdar of Ponda Taluka,  
Tisk, Ponda-Goa .....Respondent/Opponent

Filed on : 05/01/2021

Decided on : 15/09/2021

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

RTI application filed on	: 19/02/2020
PIO replied on	: 15/06/2020
First appeal filed on	: 15/06/2020
FAA order passed on	: 08/10/2020
Second appeal received on	: 05/01/2021

## **ORDER**

1. The second appeal filed under section 19(3) of the Right to Information Act, 2005 (RTI Act) by Shri. Premanand Ram Naik, resident of Curti, Ponda Goa, against Respondent Public Information Officer (PIO), Mamlatdar, Office of Mamlatdar, Ponda Goa, came before this Commission on 5/01/2021.
2. The brief facts leading to the second appeal, as contended by the Appellant are:-
  - (a) That the Appellant vide application dated 19/02/2020 sought from PIO the following information:-
    - (i) Whether ward No. VI of Village Panchayat of Curti Khandepar was a reserved or a General Category for the General Elections held for Panchayat in 2017?
    - (ii) Whether the Candidate declared winner in this ward belonged to General category or OBC?

- (b) That the PIO failed to provide information, within prescribed time frame of 30 days, the Appellant filed first Appeal dated 15/06/2020 before the First Appellate Authority (FAA), Deputy Collector, Ponda. The FAA disposed the Appeal vide order dated 08/10/2020 directing the PIO to furnish the information within six days from the issue of the Order.
- (c) That the PIO furnished documents which are irrelevant, inspite of the order passed by the FAA to furnish information being aggrieved, the Appellant was compelled to file second Appeal before this Commission with prayer for (i) complete information, (ii) compensation u/s 19(8)(vi)(b) of the RTI Act, (iii) Penalty to be imposed on the PIO.
3. The Appeal was registered, parties were notified and the matter was taken up for hearing on 09/04/2021. Pursuant to the notice the Appellant appeared before the Commission and filed written submission. The PIO was represented by Smt. Sharmila Gaonkar, APIO, under authority letter and reply was filed on behalf of the PIO. Later Shri. Rajesh Sakhalkar, PIO, Mamlatdar of Ponda appeared in person and filed written submission. Written arguments are filed by both the sides after arguing orally before the Commission.
4. The Commission has perused the Appeal memo and all submissions of both the sides. After careful perusal, the Commission would like to mention following observations:-
- (a) The Appellant has asked information related to reservation and result of ward No. VI of Village Panchayat of Curti Khandepar for the elections held for Panchayats in 2017. The PIO initially did not reply within the stipulated period of 30 days, nor sought more time to furnish information. Later the PIO sent reply dated 15/06/2020, incidentally the day on which the Appellant filed first Appeal. The PIO conveyed Appellant that the Application do not qualify as information u/s 2(f) of the RTI Act.
- (b) However, the FAA, vide order dated 8/10/2020 in the first Appeal directed the PIO to furnish information to the Appellant by 14/10/2020, free of cost and the PIO furnished information available in his office vide letter dated 13/10/2020.
- (c) The Appellant has raised question over the correctness of the information furnished by the PIO, citing conflict of content between notification dated 16/05/2017 issued by Directorate of

Panchayat, Official Gazette dated 17/05/2017 and certificate of election dated 29/05/2017 for ward No. VI of Kurti Khandepar Panchayat issued by the Returning Officer.

(d) It appears that the Appellant has pointed towards contradictory content regarding reservation of ward VI of Village Panchayat Kurti Khandepar for the Panchayat Election held in the year 2017. However the onus of correctness or accuracy of the content in these documents is not on the PIO as these documents are not created by him. The PIO has furnished the available information in his office as per the direction of the FAA.

(e) It is a fact that the PIO initially denied the information by wrongly reading section 2(f) of the RTI Act. This misinterpretation of the section caused delay in furnishing the information. However, the delay cannot be said to be deliberate and intentional.

5. Section 2(f) of the RTI Act defines 'Information' as under:-

2. (f) Definitions - In this Act, unless the context otherwise requires "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

It is pertinent to note that the PIO has furnished 'information' as defined above to the Appellant though after the expiry of stipulated period. However if the circumstances considered cumulatively and the law laid down by the Hon'ble High Court of Bombay 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 u/s 20 upon the PIO.

6. In a similar matter, Hon'ble Supreme court, in the case of Civil Liberties V/s Union of India, AIR Supreme Court 1442, has held :-

*"Under the Provisions of Right to Information Act Public authority is having an obligation to provide such information which is recorded and stored but not thinking process which is transpired in the mind of authority which has passed an order."*

In the present matter the PIO has furnished information which is recorded and stored in his office PIO cannot be held responsible for contradiction in the content of various documents held with different public authorities under this Act.

7. In the facts and circumstances mentioned above and in view of documents brought on record this Appeal does not carry any merit and thus needs to be disposed accordingly. Therefore the Commission passes the following order:-

The Appeal is dismissed, proceedings stand closed.

Pronounced in the open hearing.

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