

# GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar - State Information Commissioner

## Appeal No. 34/2021/SIC

Shri Bandhagit Nadaf,  
No.9, 3<sup>rd</sup> Floor, Paes Avenue Bldg.,  
F.L. Gomes Road,  
Vasco-Da-Gama, Goa.

.....Appellant

v/s

1)The Public Information Officer (PIO),  
Dr. A. Siona Gomes,  
Goa State Aids Control Society,  
1<sup>st</sup> Floor, Dayanand Smruti Building,  
Swami Vivekananda Road,  
Panaji-Goa.

2. The First Appellate Authority (FAA),  
Secretary Health,  
Secretariat, Porvorim-Goa

..... Respondents  
**Filed on: 11/02/2021**

**Decided on: 23/07/2021**

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

<b>RTI application filed on</b>	<b>: 14/07/2020</b>
<b>PIO replied on</b>	<b>: 17/08/2020</b>
<b>First appeal filed on</b>	<b>: 07/09/2020</b>
<b>First Appellate Authority Order passed on</b>	<b>: NIL</b>
<b>Second appeal received on</b>	<b>: 11/02/2021</b>

## **ORDER**

1. The Second Appeal filed by the Appellant Bandhagit Nadaf against the Respondent No. 1 PIO, Goa State AIDS Control Society Dr. Angelica Siona Gomes and Respondent No. 2 FAA, Secretary, Health, Secretariat under section 19(3) of Right to Information Act 2005 came before this Commission on 11/02/2021.

2. Brief facts leading to Second appeal are :

a) The Appellant Shri Bandhagit Nadaf vide his application dated 14/07/2020 had requested the Respondent No. 1 PIO for providing information on 12 points as under :

- i. Please furnish copies of Agreement signed between targeted interventions NGO's and Goa SACS for the year 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021.
- ii. Please furnish copies of Guidelines of appointment of staffs with appropriate education mentioned by National AIDS Control Organization especially for program Manager/s position in Targeted Intervention and Assistant Director Targeted Intervention Post in Goa SACS.
- iii. Please furnish copies of educational certificates as submitted by the staff and program Manager/s position in Targeted Intervention and Assistant Director Targeted Intervention Post in Goa SACS and copies of their educational certificates verifications done by the Goa SACS as per law.
- iv. Please furnish copies of Appointment letter of All Program Managers Targeted Intervention and Assistant Director Targeted Intervention Goa SACS with their educational qualification certificates.
- v. Please furnish copies of Budget approved for Targeted Intervention NGO's for financial year 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021 with the acknowledgement of Targeted Intervention Managing Committee.
- vi. Please furnish copies of Audit report of Goa SACS for financial year 2019-2020.
- vii. Please furnish copies of Budget for information of education communication IEC Department and plan for the financial year 2020-2021.
- viii. Please furnish copies of Record of transgender community registered in targeted intervention program and list of social entitlement and other such services they received.
- ix. Please furnish copies of Details of transgender involvement in managing community of MSM targeted intervention CBO (Community Based Organization )
- x. Please furnish copies of Governing body annual meetings minutes with election conducted and new board formed by

MSM CBO (Community Based Organization) including their names and designation.

- xi. Please furnish copies of Registration certificate of MSM CBO with regular interval mentioned in byelaws since MSM TI project section by Goa SACS.
- xii. Please provide inspections of entire files in regards to Information as sought U/Sec. 2(j)(i) of the RTI Act, 2005.

b) It is contention of the appellant that the PIO provided only part information and has failed to provide complete and detailed information. The appellant also claimed that the PIO deliberately furnished vague, incomplete and misguided information and refused the important information.

c) It is the contention of the appellant that upon getting only part information, the appellant filed first appeal before the First Appellate Authority, Secretary (Health), Secretariat, Porvorim. But, the Health Secretary neither heard the appeal nor passed any Order.

3. Hence, the appellant has filed the second appeal before this commission on 11/02/2021 and has prayed as under :

- i. The information as requested by the appellant be furnished correctly and free of cost as per section 7 (6) of the Right to Information Act, 2005.
- ii. U/Sec. 20 of R.T.I. Act 2005, commendable penalty is imposed on the Public Information Officer & the First Appellate Authority for knowingly and deliberately denying the information to the Appellant with malicious and malafide intention to safeguard the corrupt practices in their offices.
- iii. Full compensation may be granted as for the detriment faced by the Appellant for not getting the information and also for harassment caused for making him run from post to pillar U/Sec. 19 (8) (VI) (b) & (c) of the Right to Information Act, 2005.
- iv. The afore-mentioned Public Information Officer and First Appellate Authority have without any reasonable cause and persistently failed to furnish information as

per the RTI Act, 2005 and deliberately with malafide intention denied the request for information, knowingly given incorrect, incomplete and misleading information which is the subject of the request. Hence request the Goa State Chief Information Commission to recommend for disciplinary action against the afore-mentioned PIO & FAA under the applicable CCS rules.

- v. Information and Inspection of documents may be allowed as per rules.
  - vi. Any other order this Hon'ble Goa State Information Commission deems fit and proper in the circumstances.
4. After notifying the concerned parties, the matter was taken up for hearing. In pursuant to the notice dated 24/03/2021 the appellant remained absent and the Respondent no. 1 PIO Dr. Angelica Siona Gomes appeared in person. Dr. Gomes also furnished the authority letter from FAA to represent him.
5. The respondent No. 1 PIO had furnished part information to the appellant on 17/08/2020 in reply to the appellant's RTI application. PIO furnished more information during subsequent hearing on 27/04/2021, 12/07/2021 and 19/07/2021. Dr. Gomes filed an affidavit on 19/07/2021 elaborating on information furnished so far. Dr. Gomes has stated in the Affidavit that third party information regarding Transgender is personal and confidential and no semblance for larger public interest has been disclosed while seeking information by the appellant. Dr. Gomes has also contended in the affidavit that there is no deliberate attempt to withhold the information.

Another contention made by Dr. Gomes in the Affidavit is the element of public interest has not been reflected by the appellant in his RTI application whereby sensitive and personal information is sought for and where third party has not given consent.

6. The Commission has perused the second appeal of the Appellant as well as written submissions and affidavit filed by the Respondent No. 1 PIO. It is observed by the commission that though the entire information was not furnished within the prescribed time limit of 30 days, the PIO subsequently made efforts to gather and furnish information sought by the appellant. Therefore this Commission does not see deliberate attempt to withhold the information on the part of PIO.
  
7. The Hon'ble High Court of Bombay, Goa Bench at Panaji in a Writ Petition No. 205/2007, Shri A.A. Parulekar Versus 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.*"
  
8. The aggrieved appellant has prayed for imposing penalty as well as initiating disciplinary action against the PIO. However, it is seen from the records that PIO has continuously made efforts to furnish information. PIO has also shown her willingness to comply with Commission's instructions to furnish the information. Since there is no evidence contributing malafide on part of the respondent PIO, I am of the opinion that the facts and circumstances of the present case does not warrant levy of penalty on the Respondent PIO .
  
9. The Appellant has prayed for ordering disciplinary proceedings against the PIO in terms of Section 20 (2) of the Right to Information Act. However, the appellant has not pointed out any persistent default on the part of PIO in delaying or rejecting the information. Hence I find that the penalty u/s 20(2) need not be invoked.

10. In view of the above circumstances and in the light of above discussion, I dispose of the appeal with following:

- a) The information sought by the appellant has been deposited in the commission office. The appellant being absent during the entire proceedings could not collect the information. The appellant is directed to collect the said information within 10 days of receipt of this Order.
- b) Rest of the prayers are rejected.

11. Hence the appeal proceedings stand disposed and closed.

Notify the parties.

Pronounced in the open court.

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