

# GOA STATE INFORMATION COMMISSION

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

## **Appeal No. 187/2019**

Shakuntala D. Goltekar,  
Tropawaddo, Sodiem, Siolim,  
Bardez-Goa

..... Appellant

v/s

1. The Public Information Officer/Secretary,  
Village Panchayat of Siolim-Sodiem, Bardez-Goa
2. The First Appellate Authority,  
Block Development Officer-I,  
Bardez, Mapusa-Goa

..... Respondents

Filed on : 13/06/2019

Decided on : 20/08/2021

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

RTI application filed on	: 17/01/2019
PIO replied on	: 16/02/2019
First appeal filed on	: 24/03/2019
FAA order passed on	: 29/04/2019
Second appeal received on	: 13/06/2019

## **ORDER**

1. The Second Appeal dated 13/06/2019 was filed by Appellant Shankuntala D. Goltekar, R/o. Siolim Bardez, before this Commission against Respondent No. 1, Public Information Officer (PIO), Secretary, Village Panchayat Siolim-Sodiem and Respondent No. 2 First Appellate Authority (FAA), Block Development Officer, Bardez, Mapusa –Goa under section 19(3) of the Right to Information Act, 2005 (RTI Act).
2. Brief facts as contended by the Appellant in second Appeal are :-
  - a) That the Appellant vide application dated 17/01/2019 had sought from the PIO information regarding certified copies of the

acknowledgement of the receipt of the notices of various ordinary meetings of Village Panchayat Siolim-Sodiem, certified copies of the notices of various ordinary meetings of Village Panchayat, Siolim, Sodiem, certified copies of the outward register of various dates of the Office of Village Panchayat Siolim-Sodiem.

- b) That the PIO vide letter dated 16/02/2019 informed the appellant to collect the information, but the information provided was incomplete and not as requested by the Appellant. That inspite of bringing this fact to the notice of PIO, complete information was not provided to the Appellant and also unreasonable amount was charged at the rate of Rs. 3 per page.
- c) That the Appellant filed first Appeal before the FAA on 24/03/2019. The FAA decided the Appeal on 29/04/2019 directing the PIO to furnish remaining information within 10 days. The FAA also directed the PIO to refund the access amount of Rs. 46 to the Appellant.
- d) That some more information was furnished by the PIO during the hearing on first Appeal and also pursuant to the Order of FAA. However, complete information was not still furnished.
- e) That being aggrieved, the Appellant filed Second Appeal before the Goa State Information Commission on 13/06/2019 with following prayers:-
  - i) Order the PIO to furnish the certified copy of the acknowledgement by the Appellant of the receipt of the notice of the ordinary meeting of Village Panchayat held on 01/11/2018. If the same cannot be traced, the PIO be directed to file FIR to fix the responsibility and to initiate necessary action against the concerned person.

- ii) Order the Respondent to provide certified copy of the outward register dated 02/01/2019.
  - iii) Penalise the PIO for not providing the information within the prescribed time period.
  - iv) Order the PIO to refund the access amount of Rs. 46/-.
  - v) Order the PIO to pay appropriate compensation to the Appellant.
  - vi) Order the concerned authorities to initiate disciplinary action against the PIO.
3. After notifying the concerned parties the matter was taken up for hearing. Pursuant to the notice for hearing dated 20/08/2019, the Appellant was represented by her Advocate and the PIO appeared in person and the FAA was represented by his subordinate under authority letter on 20/08/2019. PIO Ms Navanya Goltekar filed reply dated 16/10/2019 whereas the Appellant represented by Advocate filed written arguments dated 21/11/2019. Meanwhile the then Commissioner demitted Office on completion of tenure and the matter was adjourned. The proceedings on the Appeal resumed on 17/03/2021 after the new State Information Commissioner took over. The PIO filed written arguments dated 12/04/2021, whereas V. Velingkar, Advocate for the Appellant submitted that the Appellant has narrated her case in written arguments dated 21/11/2019 and that the Appellant has no more submissions.
4. The Commission has perused the appeal memo and submissions of the Appellant as well as the PIO. After careful perusal the Commission has arrived at following findings:-

- a) The Appellant had asked for the information on three points as mentioned in para 2 (a). The PIO has provided part information within the stipulated period and additional information was provided after the Order of the FAA, except certified copy of the acknowledgement by the Appellant of the receipt of the Notice of the ordinary meeting of the Village Panchayat held on 01/08/2018.
- b) The PIO made efforts to search the said documents in her Office as per the directions of the FAA. However since the same was not traceable in the Office, the PIO issued showcause to the only clerk working in her Office Smt. Swati Vernekar. The said documents was not traceable was not traceable to Smt. Vernekar. However, considering the burden of work on Smt. Vernekar, the PIO decided not to take any action on Smt. Vernekar. Simultaneously the Panchayat requisitioned for one Office Assistant to be recruited in the Office as Village Panchayat by passing a resolution dated 20/06/2018.
- c) The non furnishing of the said documents does not appear wilful and with malafide intention and therefore there is no need for any action against the PIO under section 20 of RTI Act.
- d) It was certainly wrong on the part of the PIO to charge access fee from the Appellant . However access amount of Rs. 46 has been refunded by the PIO to the Appellant as per the directions of the FAA.
5. 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.”

6. The PIO has communicated to the Appellant regarding availability of the information and has furnished the information during the course of the first appeal and has also made efforts to comply with the order of the FAA. The Commission has noted that prima facie there appears no malafide by the PIO. Subscribing to the ratio laid down by the Hon'ble High Court of Bombay, as cited in above para, the Commission is of the opinion that there is no need to impose penalty on the PIO u/s 20 of the RTI Act.

7. In view of the above discussion the Commission passes following order:

- (a) The Appeal is partly allowed.
- (b) The present PIO of Village Panchayat Siolim-Sodiem is directed to furnish to the Appellant, certified copy of the acknowledgment by the Appellant of the receipt of the notice of the ordinary meeting of Village Panchayat held on 01/11/2018 within 10 days of receipt of this order. If the document is still not traceable the PIO is directed to take necessary action to file complaint as required.
- (c) All other prayers are rejected.

Hence the Appeal is disposed accordingly and the proceedings 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