

GOA STATE INFORMATION COMMISSION
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Complaint No. 16/2020

Shri. Joao C. Pereira,
R.o H.No. 40, Acsona,
Utorda, Majorda,
Salcete-Goa.

-----Complainant

v/s

Shri. Dinesh Gaonkar,
Public Information Officer,
Secretary, Village Panchayat of Chndor-Cavorim,
Salcete-Goa.

-----Opponent

Shri Vishwas R. Satarkar - State Chief Information Commissioner

Filed on:-09/12/2020

Decided on: 30/07/2021

ORDER

1. The Complainant herein by his application dated 26/06/2020, filed under sec 6(1) of the Right to Information Act 2005, (Act for short) sought information on five points from the Respondent No. 1, Public Information Officer (PIO) , Secretary of V.P. Chandor-Cavorim, Salcete Goa.
2. The said application was replied on 08/07/2020. However according to Complainant, the information furnished was false and incorrect information and not being satisfied with the same, he filed first appeal to the Block Development Officer, Salcete Goa, the First Appellate Authority (FAA).

3. The FAA by order dated 02/09/2020 allowed the said appeal and directed the PIO to furnish correct information to the Appellant free of cost within the period of 10 days.
4. Since the PIO failed to comply with the order of FAA, the Complainant preferred the present complaint under sec 18 of the Act. The prayer sought were (1) direction be issued to PIO to implement the order of FAA, and (2) impose penalty u/s 20 of the Act for deliberately denying the information to protect the illegal sand mining activities.
5. Notices were issued to the parties, pursuant to which they appeared. The present PIO Smt. Roquzinha Fernandes appeared on 05/04/2021 and submitted that she has recently taken the charge as PIO and therefore she has forwarded said notice to the then PIO, Shri. Dinesh Gaonkar. The then PIO, Dinesh Gaonkar appeared and file his say on 09/07/2021, stating that whatever information available on the records has been furnished to the Complainant on 08/07/2020.
6. I have perused the pleadings and scrutinized the documents on record. The entire exercise in this proceedings starts by the application dated 26/06/2020, by which, the Complainant has sought the information pertaining to one kuccha road below the Chandor railway bridge on the banks of Khushavati river. Complainant sought to know the steps taken by Panchayat till date to protect the existing kaccha road used by sand miners therein resulting in causing great hardship to the farmers, toddy tappers in carrying their agricultural activities etc.

Complainant also sought the information of certified copy of NOC granted by the Panchayat to the sand miners for carrying the sand mining activities and copy of the permission granted by the Department of Mines, Government of Goa to carry on the activity of sand mining.

On consideration of reply filed by the PIO dated 08/07/2020 it is seen that the PIO has replied and provided the information which is available in the records of public authority.

7. It is the contention of the Complainant in his complaint as also in the first appeal that information provided to him is false and incorrect. I am unable to accept the contention as the PIO under the Act is only a custodian of the records held by him. He is expected to furnish the same in the form and the manner in which it exist. He is only communicator of information based on the records held in the office.

The FAA treated the first appeal very casually and directed to furnish correct information which is beyond the limit of PIO without ascertaining whether the information is held by PIO or not.

8. It appears that Complainant is confused and skeptical in one hand he alleged for illegal sand mining activities and in other hand he is seeking information such as NOC granted to said sand mining activities by Panchayat. The PIO is neither expected nor can be called upon to collect or collate the information or can be called upon to summaries the information as is sought by the seeker. The expectation of the Complainant from the PIO is beyond his limit, the PIO is not duty bound to collect the information from Department of Mines and then furnish it to Complainant.
9. While considering the extend and scope of information that could be dispensed under the act, the Hon'ble Supreme Court in the case of : **Central Board of Secondary Education & another V/s Aditya Bandopadhyia** (Civil Appeal no.6454 of 2011) at para 35 has observed:

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides

access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

10. Complainant appeared on 05/04/2021 but did not to appear for subsequent hearings on 08/07/2021, 23/07/2021 and 30/07/2021. In the backdrop of above facts, I find no denial of information by the PIO nor there is any intentional delay. I am

therefore unable to give any direction to the PIO to implement the Order of FAA.

I find no grounds to consider the request of Complainant for invoking the Powers under sec 20 of the Act for imposing penalty and hence I dispose the complaint with the following:

ORDER

The Complaint stand dismissed.

Proceedings closed.

Pronounced in open court.

Notify the Parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner