GOA STATE INFORMATION COMMISSION
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Appeal No. 111/2021/SCIC

Mr. Colin Araujo,
H.No. 245, Near Canara Bank,
Fatorda, Margao-Goa. 403602. .....Appellant

V/S

The Public Information Officer,
Village Panchayat Colva,
Colva-Salcete-Goa. .....Respondent

Shri. Vishwas R. Satarkar State Chief Information Commissioner

Filed on: 01/06/2021
Decided on: 10/01/2022

FACTS IN BRIEF

1. The Appellant, Mr. Colin Araujo, H.No. 245, Near Canara Bank, Fatorda, Margao-Goa, by his application dated 13/01/2021 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information from the Public Information Officer (PIO), Village Panchayat Colva, Colva, Salcete-Goa.

2. The said application was not responded by PIO within stipulated time, therefore deeming the same as refusal, Appellant filed first appeal before Block Development Officer at Margao Goa.

3. The FAA by its order dated 22/04/2021 allowed the said first appeal and directed the PIO to furnish the information to the Appellant, free of cost, within ten days from the date of receipt of the Order.

4. Since the PIO did not comply with the order of the FAA, the Appellant preferred this second appeal before the Commission under sec 19(3) of the Act, with the prayer to penalise the PIO and take disciplinary action for disobeying the order of Appellate Authority.

5. Notice was issued to the parties, PIO, the Secretary of V.P. Colva filed his reply alongwith bunch of documents on 28/10/2021

through Registered AD. The Appellant also submitted that he received the reply and bunch of documents by Registered AD Postal service.

6. The PIO neither appeared for personal hearing before the Commission nor justify or gave reasons for the delay in furnishing the information, I dispose this appeal on the basis of submissions made by the Appellant and documents available on records.

7. Records reveals that upon the receipt of the notice of the Commission, the PIO furnished the information to the Appellant through Registered AD Postal service on 28/10/2021.

8. On perusal of reply filed by PIO on 28/10/2021, it is observed that, PIO did not bother to file the reply to the RTI application of the Appellant dated 12/01/2020 till the notice of second appeal was issued.

9. Under sec 7(1) of the Act, the PIO is required to dispose the request of the seeker within 30 days. Disposal of request may result in furnishing of information on payment of fees or rejection of request on ground as mentioned in sec 8 and /or sec 9 of the Act.

10. In the present case, the PIO has furnished the information to the Appellant on 28/10/2021 that is after a lapse of almost 09 months. The PIO should have undertaken the exercise of furnishing the information immediately that is within a period of 30 days on receipt of the RTI application, if the said information was available with the PIO.

11. The prayer clause of the present appeal reads as under:-

    a) To take disciplinary action against the PIO for disregarding the Orders of the Honourable Courts.

b) To penalize the PIO/ Respondent as per the guidelines/rules and regulations set as the RIGHT TO INFORMATION ACT.

12. The RTI application was filed on 13/01/2021 and the information provided to the Appellant on 28/10/2021, the delay is not a marginal delay. Besides the PIO in the entire proceeding miserably failed to explain the delay caused in furnishing the information.

13. On perusal of the order of FAA dated 22/04/2021, FAA directed the PIO to furnish the information to the Appellant free of cost within ten days from the receipt of the order. However the PIO not only failed and neglected to comply with the order of FAA within the period provided by the FAA but waited till he received the notice of second appeal. I find that the PIO has deliberately/ malafidely withheld the information from being disclosed.

14. Inspite of valid service of notice, the PIO also failed to appear before the Commission on 05/08/2021, 07/09/2021, 08/10/2021, 12/11/2021, 17/12/2021 and 10/01/2022. The PIO herein has shown complete lack of concern to the process of the Commission and not discharged his responsibility and has also failed to justify the inordinate delay in furnishing the information to the Appellant.

15. Section 20 of the Act clearly lays down that in case the information has not been supplied within time limit, without any reasonable cause then the Commission shall impose the penalty.

16. Hon'ble High Court of Bombay, Goa bench in case of **Johnson B. Fernandes v/s The Goa State Information Commission & Another (2012 (1) ALL MR 186)** has held that, law contemplates supply of information by PIO to party who seek it, within the stipulated time, therefore where the information sought was not supplied within 30 days and was supplied in reply

to appeal when matter was taken up by the party in appeal, the imposition of penalty upon the PIO was proper.

In another judgement of Calcutta High Court in **Madhab Kumar Bandhopadhyay v/s The Chief Information Commissioner (AIR 2013 Cal. 128),** it has been held that, belated supply of information by PIO cannot absolve him of the penal consequences.

17. Considering the ratio laid down by the various High Courts, the Commission comes to the conclusion that it is a fit case for imposing penalty under sec 20 against the PIO, Shri. Amol Tilve. However before any penalty is imposed, the principle of natural justice demands that an explanation be called for from the concerned PIO, as to why he failed to discharge the duty cast upon him as per the RTI Act. I therefore pass the following:-

ORDER

- The PIO, Shri. Amol Tilve, Secretary of Village Panchayat Colva, Salcete, Goa is hereby directed to show cause as to why penalty should not be imposed on him in term of sec 20(1) and/or recommend disciplinary proceeding against him in terms of sec 20(2) of the Act.
- The reply to the show cause notice is to be filed on 15/03/2022 at 10:30 am.
- The appeal disposed accordingly.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner