

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 296/2021/SIC

Mr. Preetam Vasant Kerkar,
H. No. 654, Maina,
Sodiem, Siolim, Bardez-Goa
V/s

...Appellant

1. Public Information Officer (PIO),
Village Panchayat Siolim-Sodiem,
Bardez-Goa, 403517

2. The First Appellate Authority (FAA),
Block Development Officer-I,
Bardez, Mapusa-Goa

..... Respondents

Filed on : 7/12/2021

Decided on : 4/08/2022

Relevant dates emerging from appeal:

RTI application filed on	: 03/04/2021
PIO replied on	: 27/04/2021
First appeal filed on	: 28/05/2021
FAA order passed on	: 31/08/2021
Second appeal received on	: 07/12/2021

ORDER

1. The second appeal filed by the appellant under section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA) came before the Commission on 7/12/2021.
2. The brief facts of this appeal, as contended by the appellant are that, vide two applications dated 3/04/2021 he sought certain information from the PIO. Aggrieved with the reply of PIO dated 27/04/2021 the

appellant filed appeal dated 28/05/2021 before the FAA. FAA vide order dated 31/08/2021 disposed the appeal. However, not satisfied with the said order the appellant preferred second appeal before the Commission.

3. Pursuant to the notice of the Commission, PIO appeared and filed reply on 2/02/2022, filed submission on 1/06/2022 and argued on the same day. Appellant appeared in person and filed submission dated 5/04/2022 and filed written arguments dated 6/07/2022.
4. PIO stated that information sought by the appellant is bulky and voluminous, she alongwith the staff of the Village Panchayat Siolim-Sodiem was busy in the management of Covid-19 outbreak. Therefore, vide reply dated 27/04/2021 she requested the appellant to inspect the records and identify the information so that PIO will be able to furnish the same. Appellant did not respond to the request. Later, while disposing first appeal FAA directed PIO to provide for inspection, accordingly vide letter dated 17/09/2021 PIO requested appellant to visit her office on 23/09/2021 in order to carry inspection, yet the appellant did not respond.
5. PIO further stated that in view of the reasons mentioned above it cannot be termed that the requested information has not been furnished, and no malafide can be attributed to the intentions of the PIO.
6. Appellant submitted that inspite of the specific request PIO failed to furnish the information within 30 days. Whatever may be the situation and reason, the Act mandates PIO to furnish the information within 30 days. Appellant further contended that he had not asked for the inspection, yet was ready to undertake the inspection as per the request of the PIO, however, the inspection was not provided by the PIO.

7. Appellant argued on 06/07/2022 stating he was not tested positive for Covid-19. Another neighbouring family was tested positive and was quarantined at home, whereas PIO presumed that appellant's family tested positive. The PIO, after the directions by the FAA sent a letter for inspection, but no inspection was provided.
8. Upon careful perusal of the submissions and records of this matter it is seen that the information sought by the appellant vide two applications dated 3/04/2021 was not furnished by the PIO within the stipulated period. However, PIO had requested the appellant to visit her office for the inspection. Appellant could not undertake the inspection. Later instead of undertaking the inspection appellant filed first appeal. FAA while disposing the appeal directed the PIO to provide for the inspection and furnish the information within 15 days. Accordingly PIO requested appellant to come for inspection. Appellant could have undertaken the inspection as suggested by the PIO, yet he chose not to visit PIO's office and filed second appeal.
9. While looking at the applications it appears that information sought by the appellant is indeed voluminous and pertains to the period of more than ten years in one application and more than 40 years in the other application. Seeking information is the statutory right of the appellant, however the Commission is of the opinion that the information was sought when the PIO was busy in the management of Covid-19 outbreak. In those circumstances appellant was requested to visit PIO's Office for inspection of records. This being the case where bulky and voluminous information was sought and PIO was busy in the management of Covid-19 outbreak the appellant should have visited the PIO's office and helped the PIO to identify the information.
10. It is noted that with respect to the PIO's request vide reply dated 27/04/2021, the appellant could not visit PIO's office. He had

another occasion provided by the PIO upon the direction of the FAA to inspect the records. Appellant here again failed to visit PIO's office for the inspection.

11. The Commission observes that though the PIO has failed to furnish the information, she had requested the appellant to inspect the records. PIO has not denied the information and was willing to provide the inspection. It was necessary on the part of the appellant to inspect and identify the information requested by him since the same appears to be voluminous. Hence the Commission concludes that though there is contravention of section 7 (1) of the Act by the PIO, no malafide can be attributed to the action of the PIO.

12. Hon'ble High Court of Bombay, Goa bench at Panaji, in writ petition No. 205/2007, Shri. A. A. Parulekar V/s Goa State Information Commission, has held that:-

"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."

13. Subscribing to the above mentioned ratio laid down by the Hon'ble High Court of Bombay the Commission holds that there is no need to invoke section 20(1) and 20(2) against the PIO. However, the PIO is required to furnish the information to the seeker.

14. In the light of the above discussion the present appeal is disposed with the following order:-

a) The appellant, If desires may visit PIO's office and inspect and identify the information sought vide applications dated 3/04/2021, within 10 days from the receipt of this order.

b) PIO is directed to provide for the inspection as mentioned in Para (a) above and furnish the information identified by the

Appellant, within 7 days from the final day of inspection, free of cost.

c) All other prayers are rejected.

15. Proceeding stands 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