

**GOA STATE INFORMATION COMMISSION**

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

**Appeal No. 254/2021/SIC**

Mr. Bharat L. Candolkar,  
R/o. Vaddy Candolim,  
Bardez-Goa 403515.

-----Appellant

**v/s**

1.The Public Information Officer,  
The Secretary  
Village Panchayat Candolim,  
Candolim, Bardez-Goa 403515.

2. The First Appellate Authority,  
Block Development Authority,  
Mapusa, Bardez-Goa.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 02/06/2021
PIO replied on	: 16/06/2021
First appeal filed on	: 17/06/2021
First Appellate Authority passed order on	: 27/07/2021
Second appeal received on	: 14/10/2021
Decided on	: 23/09/2022

**ORDER**

1. The appellant vide application dated 02/06/2021, filed under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought certain information from Respondent No. 1, Public Information Officer (PIO). Aggrieved by non furnishing of the complete information, he filed first appeal before Respondent No. 2, First Appellate Authority (FAA). FAA directed to PIO to provide for inspection of records and furnish complete information. PIO did not comply with the said order, hence the appellant approached the Commission by way of the second appeal.
2. Notice was issued to the concerned parties, pursuant to which, appellant appeared alongwith Advocate Atish P. Mandrekar, filed a submission on 24/03/2022 and argued on 10/12/2021 and 19/07/2022. PIO remained absent initially, however later appeared

alongwith Advocate Siddhesh Prabhudesai and argued on 10/12/2021.

3. Appellant stated that, it is mandatory on the part of the public authority to maintain all records pertaining to operational needs, thus the requested information should have been furnished to the appellant. Similarly, FAA had directed PIO to provide for inspection and furnish complete information. In spite of these provisions and FAA's directions PIO has failed to furnish the complete information.
4. Advocate Siddhesh Prabhudesai appearing on behalf of PIO, on at least 3 occasions undertook to file reply, yet filed no reply. PIO alongwith Advocate Prabhudesai furnished information on 24/02/2022, however, appellant pointed out that the complete information is still not furnished. Later, Advocate Prabhudesai undertook to file a clarification, yet no clarification was filed either by him or by the PIO.
5. Advocate Atish P. Mandrekar, while arguing on 10/12/2021 on behalf of the appellant contended that PIO is evading the disclosure of complete information with malafide intention to protect illegalities committed by the public authority while issuing No Objection Certificate/ License for sale of liquor in a particular premise. The information furnished pertains to part of the premise and appellant has requested for information pertaining to the complete premise, which the public authority, i.e. Village Panchayat Candolim must have.
6. Advocate Atish P. Mandrekar argued on 19/07/2022 stating that as per the memorandum dated 21/06/2011 issued by the Director of Panchayats, Secretary of Village Panchayat, who is the PIO in the present matter is responsible for maintaining all the records in the prescribed format and non compliance will invite action against the Secretary. As directed by the Commission, PIO provided the inspection of records, however it was revealed during the inspection

that the records are not maintained properly and some documents including the complaint filed by the appellant was missing from the file. Therefore, appellant insists on complete information and penal action against PIO for contravention of Section 7 (1) of the Act.

7. Upon perusal, it is seen that the initial reply dated 16/06/2021 issued by the PIO has denied most of the information to the appellant. Later FAA directed the PIO to provide for inspection and furnish complete information, yet these directions were not complied. Hence, appellant was compelled to file the second appeal. The casual attitude of the PIO with an intention to evade the disclosure of the information continued even during the proceeding before the Commission. In spite of direction from the Commission, no reply was filed. Inspection was provided as directed, however, appellant claimed that some documents including his own complaint were missing from the file. Later, at least on two occasions PIO and his advocate undertook to file clarification, yet nothing was filed before the Commission.
8. As if this was not sufficient, Advocate Prabhudesai on 27/06/2022 requested for time to file a submission. Request was granted and two opportunities were provided on 19/07/2022 and 12/09/2022, yet neither the PIO, nor his representative appeared, no submission was filed before the Commission.
9. This being the case, it is clear that in spite of repeated opportunities given to PIO he has not bothered to file reply and consistently evaded the information the appellant was seeking. From the conduct of the PIO, it can be clearly inferred that he has no concern to his obligations under the Act and has no intention to obey the order passed by the FAA and fulfill the undertaking given before the Commission. Such an adamant and deplorable conduct smells malafide and the same cannot be subscribed by the Commission.

10. From the above gesture of PIO, the Commission prima facie finds that the entire conduct of PIO is not in consonance with the RTI Act. Such a lapse on the part of PIO is punishable under Section 20 (1) and 20 (2) of the RTI Act. However, before imposing penalty, the Commission finds it appropriate to seek explanation from the PIO as to why penalty should be imposed on him for the contravention of Section 7 (1) of the Act, for non compliance of order of the First Appellate Authority and for delay in furnishing the information.
  
11. In the light of above discussion, the present appeal is disposed with the following order:-
  - a) The present PIO, Village Panchayat Candolim is directed to comply with the order passed by the FAA dated 27/07/2021 and furnish remaining information sought by the appellant vide application dated 02/06/2021, within 15 days from the receipt of this order, free of cost.
  - b) Issue notice to Shri. Lourenco Ribeiro, the then PIO and the then PIO is further directed to showcause as to why penalty as provided under Section 20 (1) and /or 20 (2) of the Act should not be imposed against him.
  - c) In case the then PIO is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith the present address of the then PIO, Shri. Lourenco Ribeiro.
  - d) Shri. Lourenco Ribeiro, the then PIO is hereby directed to remain present before this Commission on 01/11/2022 at 10.30 a.m. alongwith the reply to the showcause notice.
  - e) The Registry is directed to initiate penalty proceeding against Shri. Lourenco Ribeiro, the then PIO of Village Panchayat Candolim.

Proceeding of the present appeal 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