

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 88/2022/SIC

Shri. Anil V. Sawant Dessai,
H.No. 189/9, "SAIEE-KUNJ",
Sonfator-Xeldem Housing Board,
Xeldem, Quepem-Goa 403705.

-----Appellant

v/s

1. The Public Information Officer,
Office of the Secretary,
Village Panchayat Xeldem,
Xeldem, Quepem-Goa 403705.

2. The First Appellate Authority,
Office of the Block Development Officer,
B.D.O. of Quepem Taluka,
Quepem-Goa 403705.

-----Respondents

Filed on: 21/03/2022
Decided on: 22/08/2022

Relevant dates emerging from appeal:

RTI application filed on	: 07/12/2021
PIO replied on	: Nil
First appeal filed on	: 14/01/2022
First Appellate authority order passed on	: 17/02/2022
Second appeal received on	: 21/03/2022

ORDER

1. The appellant vide application dated 07/12/2021 had sought information on 12 points from Respondent No. 1, Public Information Officer (PIO). Upon not receiving any reply from the PIO within stipulated period, he filed appeal dated 14/01/2022 before Respondent No. 2, First Appellate Authority (FAA). FAA vide order dated 17/02/2022 directed PIO to furnish the information within 10 days. However, PIO did not comply with the said direction.
2. Being aggrieved by non furnishing of the information and non compliance of the order of FAA, the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed second appeal before the Commission. Upon registering the appeal, the Commission issued notice to the concerned parties and the matter was taken up for hearing. Appellant appeared in person on 25/04/2022 and prayed for the information. PIO alongwith Advocate Prakash A. G. Dessai appeared on 25/04/2022 and

undertook to furnish the information to the appellant. Reply of FAA alongwith the enclosures was received in the entry registry on 18/04/2022.

3. Upon perusal of the records, it is seen that, the appellant vide application dated 07/12/2021 had sought information on 12 points. No information was furnished by the PIO within the stipulated period of 30 days. Later, FAA vide order dated 17/02/2022 had directed the PIO to furnish the information free of cost, within 10 days. In addition to that, the PIO was directed to follow the provisions of the Act. Later, appellant vide reminder dated 28/02/2022 requested the PIO to comply with the order of FAA, yet PIO did not furnish any information.
4. It is noted that, during the hearing on 25/04/2022, PIO alongwith Advocate Prakash A. G. Dessai appeared before the Commission and undertook to furnish the information. However, the PIO neither appeared for subsequent hearing, nor filed any reply. Appellant, who attended the hearing on 18/07/2022, stated that, the PIO has not furnished the information and prays for imposition of penalty alongwith the direction to the PIO to furnish the information.
5. PIO under Section 7 (1) of the Act is mandated to respond to the application filed under Section 6 (1) of the Act, within 30 days. If the information does not pertain to his office, then under Section 6 (3) of the Act he is required to transfer the application within 05 days to the concerned authority. The PIO under Section 5 (4) of the Act can seek the assistance of any other officer in order to furnish the information to the appellant. No reply within the stipulated period is considered under Section 7 (2) of the Act as deemed refusal of the request. In case of refusal to provide the information, under Section 19 (5) of the Act the onus to prove that a denial of a request was justified is on the PIO. PIO has not taken any of the steps as mentioned above. The non cooperative and negligent approach of the PIO has denied the information to the appellant. Seeking information is a statutory right provided to a citizen and the PIO, in the present matter is guilty of denying the same to the appellant.
6. Hence, the Commission finds that, this is a clear case of violation of the provisions of the Act by the PIO. Alongwith contravention of Section 7 (1) of the Act, PIO has disobeyed the directions of the FAA and also, has not fulfilled the undertaking given before the Commission.

7. Such a deplorable conduct of the PIO is not acceptable to the Commission and thus, the guilty PIO needs to be punished under Section 20 of the Act, for his failure to furnish the information and not to adhere with the directions of the authorities appointed under the Act. However, before imposing such penalty, the Commission thinks it appropriate to hear the PIO regarding violation of the provisions of the Act by him.
8. In the light of above discussion, the appeal is disposed with the following order:-
 - a. PIO is directed to furnish the information sought by the appellant vide application dated 07/12/2021, within 20 days from the receipt of this order, free of cost.
 - b. Issue show cause notice to the PIO, Secretary, Village Panchayat Xeldem, and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) and / or 20 (2) of the Act should not be imposed against him/her.
 - c. In case the PIO at the relevant time 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 fixed in the matter, alongwith full name and present address of the PIO.
 - d. PIO is hereby directed to remain present on **06/10/2022 at 10.30. a.m.** alongwith reply to the showcause notice.
 - e. The Registry is directed to initiate penalty proceeding against the PIO.

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

