

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 299/2021/SCIC

Mr. Shrikant V. Gaonker,
SF-5, 2nd Floor,
Padmavati Tower, 18th June Road,
Panaji-Goa. 403001

..... Appellant

V/s

1. The Public Information Officer,
Office of the Assistant Registrar of
Co-operative Societies,
Central Zone, Sahakar Bhavan,
1st floor, Opp. Municipal Market,
Panaji-Goa 403001

2. The First Appellate Authority,
The Assistant Registrar of
Cooperative Societies,
Central Zone, Sahakar Bhavan,
1st Floor, Opp. Municipal Market,
Panaji-Goa, 403001

..... Respondents

Filed on: 20/12/2021

Decided on: 31/05/2022

Relevant dates emerging from appeal:

RTI application filed on	: 14/08/2020
PIO replied on	: 04/09/2020
First appeal filed on	: 25/08/2021
FAA order passed on	: 07/10/2021
Second appeal received on	: 20/12/2021

ORDER

1. The second appeal filed 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 20/12/2021.
2. The brief facts of this appeal are that the appellant vide application dated 14/08/2020 had sought information on 14 points from the

PIO. Upon not getting the information, appellant filed complaint under section 18 of the Act, before the Commission. The Commission vide order dated 30/07/2021 directed appellant to file first appeal under section 19(1) before the FAA and the FAA was asked to decide the matter in accordance with the law.

Later, during the proceeding of the first appeal, PIO furnished the information to the appellant on 30/09/2021 which was acknowledged by the appellant. However, appellant filed second appeal with various prayers including penalty to be imposed on PIO for delaying the information and award of compensation.

3. Notice was issued to both the sides, pursuant to which appellant and PIO appeared in person. Appellant filed a submission dated 17/02/2022 and rejoinder dated 04/05/2022, whereas PIO filed reply on 13/04/2022.
4. Appellant, while referring to some of his earlier applications filed before the same public authority, stated that the PIO has always failed to furnish the information, within the stipulated period, hence he should be punished under section 20 of the Act. Appellant further stated that the PIO, in this matter did not furnish the information within the stipulated period which was later, furnished before the first appellate authority. That the PIO unnecessarily asked appellant to visit his office for inspection of the records, when the appellant had requested only for the information and not for inspection.
5. PIO stated that the information sought was bulky and voluminous, hence he requested the appellant to come and inspect the records. However due to Covid-19 pandemic situation appellant could not undertake the inspection. Later, on 29/07/2021 PIO provided the information, however appellant refused to accept stating that he requires the said information in tabular form. Subsequently he filed first appeal and during the proceeding on 30/09/2021 PIO has furnished the complete information alongwith the reply, as desired by the appellant, and the appellant has given his acknowledgement.
6. On perusing the records it is seen that the PIO has furnished the complete information on all 14 points, as sought by the appellant in tabular form and the appellant has acknowledged the same. During the proceeding before the Commission, the appellant submitted that he has received the information, yet he has filed

the second appeal in order to press for the penal action under section 20 of the Act against the PIO, since the information has furnished after much delay.

7. Even though the appellant has insisted on imposing penalty on the PIO, the Commission notes from the records that the PIO had never denied the information to the appellant. PIO had requested the appellant to undertake inspection and identify the records since the information sought is bulky. Still, appellant could not visit PIO's office due to Pandemic situation. In between, some time elapsed since the appellant filed complaint under section 18 of the Act before the Commission. The matter was redirected to the FAA and PIO furnished the information during the proceeding before the FAA. It appears that the PIO was willing to provide the information and therefore no malafide can be attributed to his conduct.

8. Hon'ble High Court of Bombay at Goa in writ petition No. 704 of 2012 (Public Authority and others V/s Shri. Yeshwant Tolio Sawant) has held:-

"Imposition of such a penalty is a blot upon the career of the officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and infact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."

9. Subscribing to the ratio laid down as above as well as in the case of A. A. Parulekar V/s Goa State Information Commission and considering the facts of the present case, the Commission concludes that the PIO has furnished the information to the satisfaction of the appellant. Therefore invoking section 20 of the Act is not required since no malafide on the part of the PIO has been established and the appeal needs to be disposed accordingly.

10. Thus, the present appeal is disposed as dismissed and the 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