

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 28/2022/SIC

Mr. Leo Alvares,
R/o. H.No. 86/A,
Anus, Nuvem,
Salcete-Goa, 403713.

-----Complainant

v/s

Public Information Officer,
Office of the Mamlatdar of Salcete,
Mathany Saldanha Complex,
Margao, Salcete-Goa, 403601.

-----Opponent

Relevant dates emerging from the proceeding:

RTI application filed on	: 29/12/2021
PIO replied on	: Nil
First appeal filed on	: 22/02/2022
First Appellate authority order passed on	: 30/03/2022
Second Appeal filed on	: 29/04/2022
Second Appeal decided on	: 29/07/2022
Complaint received on	: 29/08/2022
Decided on	: 28/11/2022

ORDER

1. Aggrieved by non compliance of the order dated 29/07/2022 of the Commission, by opponent Public Information Officer (PIO), the complainant under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed the present complaint, which came before the Commission on 29/08/2022.
2. The brief facts of the instant complaint are that the complainant vide application dated 29/12/2021 had sought certain information from the PIO. Upon not receiving the said information within the stipulated period, he filed appeal before the First Appellate Authority (FAA). Being aggrieved with the proceeding and the order of the FAA, he filed second appeal before the Commission. The said appeal was decided vide order dated 29/07/2022 with direction to the PIO to furnish the information within 20 days from the receipt of the order, free of cost.
3. It is the contention of the complainant that, the PIO has not furnished the information inspite of the order passed by the Commission. The complainant further contended that, the PIO has not respected the order of the Commission, hence, he prays for

recommend disciplinary action against the PIO with heavy fine and also directions to the PIO to furnish the information.

4. Notice was issued to the concerned parties and the matter was taken up for hearing. Complainant appeared alongwith Advocate C. Vas and pressed for the information as well as penal action against the PIO. Smt. Sharmila Sinai Kerkar, APIO appeared on behalf of the PIO, however filed no reply.
5. Advocate C. Vas, while arguing on behalf of the complainant stated that, initially PIO has not furnished any information. Later, after the direction issued by the Commission, PIO furnished part information, however, copy of the Deed of Sale dated 18/11/1975 is still not provided. PIO has disrespected the Commission by not complying with the order and also has caused inconvenience and agony and monetary loss to the complainant by compelling him to appear before the appellate authorities.
6. Upon careful perusal of the records, it is seen that, the complainant, being aggrieved by non-furnishing of the information had filed second appeal (Appeal No. 120/2022/SIC) on 29/04/2022. The Commission, while disposing the said appeal vide order dated 29/07/2022 had concluded that the information sought is in public domain and the PIO has failed to show that the concerned file is not available in his records. It was held that it is the statutory right of the appellant to seek information under the Act, hence PIO under Section 7 (1) of the Act is required to furnish the said information. PIO, vide the said order was directed to furnish the information within 20 days.
7. Complainant vide application dated 29/12/2021 had sought information on four points with respect to Mutation No. 1418 with regards to property bearing Survey No. 10/1 of Nuvem Village. The available records suggests that PIO did not furnish any information within the stipulated period. Information was sought on four points and the complainant in the instant matter has stated that PIO furnished information on point no. 1, 2 and 3 after the direction of the Commission, however, Deed of Sale dated 18/11/1975 is still not furnished.
8. It is observed that, the PIO did not appear in person during the hearing of the present complaint and deputed Smt. Sharmila Sinai Kerkar, APIO, however filed no submission, nor furnished any explanation on the contention of the complainant. Therefore, the Commission concludes that the PIO is guilty of non adhering to the direction of the Commission and non furnishing of the complete

information. PIO has failed to furnish the information despite of multiple opportunities given to him, i.e. during the stipulated period of 30 days, during the proceeding of the first appeal, during the proceeding of the second appeal and after the disposal of the second appeal. This shows the adamant attitude of the PIO and the same cannot be endorsed by the Commission. This being the case , the Commission concludes that penal action under Section 20 (1) and 20 (2) needs to be initiated against the guilty PIO.

9. Nevertheless, the present matter being the complaint filed under Section 18 of the Act, subscribing to the ratio laid down by the Hon'ble Supreme Court in the case of Chief Information Commissioner and Another v/s State of Manipur and Another (Civil Appeal No. 10787-10788 of 2011), the Commission has no jurisdiction to direct PIO to furnish the remaining information to the complainant.
10. In the background of the facts mentioned above, PIO is held guilty of not adhering to the direction of the authority designated under the Act and for contravention of Section 7 (1) of the Act, making him liable for penal action under Section 20 of the Act.
11. In the light of above discussion, the present complaint is disposed with the following order:-
 - a) The complaint is allowed.
 - b) Issue notice to Shri. Laxmikant R. Dessai, PIO to show cause as to why action as contemplated under Section 20 (1) and /or 20 (2) of the Act should not be initiated against him for contravention of Section 7 (1) of the Act and for not complying with the order of the Commission.
 - c) In case the PIO at the relevant time, to whom the present notice is issued is transferred, the present PIO shall serve this notice along with the order to him and produce the acknowledgement before the Commission on or before the next date fixed in the matter, alongwith present address of the then PIO.
 - d) Opponent PIO, Shri. Laxmikant R. Dessai is hereby directed to remain present before the Commission on **10/01/2023 at 10.30 a.m.** alongwith written reply to the show cause notice stating why penalty as provided under Section 20 (1) and 20 (2) of the Act should not be imposed on him.

e) The Registry is directed to initiate penalty proceeding as mentioned above.

Proceeding of the present complaint 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