

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 10/2022/SIC

Querobino P. Gomes,
R/o. H.No. 324, Praca de Rachol,
Salcete-Goa 403719.

-----Complainant

v/s

The Public Information Officer,
Mamlatdar of Salcete,
Margao, Salcete-Goa.

-----Opponent

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

Relevant dates emerging from the proceeding:

RTI application filed on	: 05/10/2020
PIO replied on	: 27/11/2020
First appeal filed on	: 09/11/2020
First Appellate authority order passed on	: 04/12/2020
Second appeal received on	: 15/01/2021
Second appeal decided on	: 13/01/2022
Complaint filed on	: 21/03/2022

ORDER

1. The brief facts of this complaint are that the complainant had sought certain information from opponent Public Information Officer (PIO). He did not receive complete information inspite of the direction of the First Appellate Authority (FAA), hence filed second appeal dated 15/01/2021. The Commission vide order dated 13/01/2022 directed the PIO to furnish information on point no. 2 and 3 of application dated 05/10/2020. It is the contention of the complainant that the information is not furnished. Thus, the complainant has approached the Commission by way of complaint under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') against opponent Public Information Officer (PIO), Mamlatdar of Salcete, Margao-Goa.
2. Notice dated 24/03/2022 was issued by the Commission to the concerned parties and the matter was taken up for hearing. Smt. Sharmila Sinai Kerkar, APIO and Shri. Vishwas Satardekar appeared on behalf of the PIO and filed reply dated 09/06/2022. Appellant appeared in person, filed a submission on 28/06/2022.
3. PIO stated that, the notice has been issued to the Tenant, to produce the document.

4. Appellant submitted that, he approached the PIO after the Commission's direction to furnish the information, however the PIO and his dealing officer refused to entertain him. Appellant further stated that, the PIO in his reply states that notice is been issued to the Tenant to produce the documents. Means the PIO is not even aware that the information sought is related to tenant association of Voddi Khazan, Raia Rachol, and not pertaining to a tenant. The PIO is misguiding the Commission by filing a wrong reply, hence penalty should be imposed on him for failure to comply the direction of the Commission and recommend disciplinary action against him.
5. The Commission has perused the records of the present complaint. It is seen that the Commission vide order dated 13/01/2022 had directed the PIO to furnish the information sought under point no. 2 and 3 of his application dated 05/10/2020 within 20 days from the receipt of the order, free of cost. The PIO was also directed to adhere to the provisions of the Act. However, the complainant contends that the PIO has not furnished the information and has not complied with the direction of the Commission, which appears to be true.
6. The Commission is astounded by the reply dated 09/06/2022, furnished by the PIO and records following observations pertaining to the said reply:-
 - a) The said reply reads as follow:-

“Reply to Notice dated 19/04/2022
The Respondent submits as under:-

 1. That the above named appellant has filed the above appeal against the Public Information Officer before the First Appellant Authority.
 2. I state that the notice has been issued to the Tenant to produce the documents.”
 - b) Notice issued by the Commission is dated 24/03/2022 and not dated 19/04/2022, as stated by the PIO in his reply, as mentioned above. PIO has failed to read and note the content of the said notice which shows how casual his approach is.
 - c) Mention of the first appeal at point no.1 of PIO's reply is irrelevant since the said appeal is already decided by the FAA vide order dated 04/12/2020 and the complainant was compelled to file second appeal before the Commission as he was not provided the inspection of the entire records, as directed by the FAA. Further, the complainant had to file the present complaint since he is not provided the information as directed by the Commission vide order dated 13/01/2022.

- d) PIO has stated in point no. 2 of his reply that the notice has been issued to the tenant to produce the documents. It is seen from the application of the complainant that he had sought information pertaining to tenant association of Voddi Khazan, Raia Rachol, and not regarding any tenant. The Commission, while disposing the second appeal (Appeal No. 10/2021/SIC) had held that the PIO, who is the Mamlatdar of Salcete is in full control of the affairs of the Tenant Association and he is required to maintain the information sought by the complainant, and he is empowered to get the information from the association, if the association has not filed the same voluntarily.
7. The PIO, if at all issued any notice to the said tenant association to produce the documents, then the PIO was required to furnish a copy of the said notice, or relevant details like date, outward number of the said notice, or any other details to substantiate his reply. PIO has failed to produce any relevant evidence to show that a notice as claimed by him has been really sent from his office. Hence, the Commission cannot accept point no. 1 and point no. 2 of PIO's reply as valid reply.
 8. Also, the PIO has not indicated what follow up measures he took subsequent to the 'notice' sent by him, in order to furnish the information to the complainant and ensure compliance of the order of the Commission. The Commission has noted that the PIO or his representative stopped attending the proceeding upon filing the reply on 09/06/2022.
 9. The approach of the PIO, who is a senior officer in the administration of the Government, towards the provisions of the Act, appears to be very casual. Similarly, the PIO has not shown any respect towards the directions of the authorities constituted under the Act. Such an imperious conduct of the PIO is not acceptable to the Commission. PIO must introspect for his conduct and for his inaction which led to non furnishing of the information to the complainant, resulting into contravention of Section 7 (1) of the Act. Hence, the PIO is held guilty for not adhering to the directions of the authorities appointed under the Act and for not complying with the provisions of the Act. Thus, the PIO is liable for penal action under Section 20 of the Act.
 10. Complainant, alongwith the prayer for imposing penalty and initiating disciplinary action against the PIO, has also prayed for the information. However, the present proceeding, being a complaint, the Commission has no jurisdiction to direct the PIO to furnish the

information under Section 18 of the Act, which is also the ratio laid down by the Hon'ble Supreme Court in Civil Appeal Nos. 10787-10788 of 2011 in Chief Information Commissioner and another v/s. State of Manipur and another.

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 the PIO to show cause as to why no action as contemplated under Section 20 (1) and /or 20 (2) of the Act should not be initiated against him/her 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/her 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 then PIO.
 - d) Opponent PIO is hereby directed to remain present before the Commission on 03/10/2022 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/her.
 - 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

