

GOA STATE INFORMATION COMMISSION

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**Penalty No. 20/2022
in
Appeal No. 307/2021/SCIC**

Minguel Fernandes,
H.No. 225/1, Sinqetim,
Navelim, Salcete-Goa.

.....Appellant

V/S

1. The Public Information officer,
Maya K. Amonkar,
Superintendent of Survey & Land Records,
Margao, South Goa.

2. The First Appellate Authority,
Mandar M. Naik,
Dy. Director (Admin),
Settlement & Land Records,
Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 11/08/2022

Decided on: 14/12/2022

ORDER

1. The Commission vide order in Appeal No. 307/2021/SCIC dated 08/07/2022 had come to the conclusion that, the PIO Mr. Patrick Gonsalves, Superintendent of Survey and Land Records, Margao, Goa had erred in not furnishing the information to the Appellant, as per his RTI application dated 21/09/2021 as mandated by the Right to Information Act, 2005 (hereinafter to be referred as 'Act') within stipulated period. The Commission has also observed that the PIO also failed to comply the direction of the FAA to furnish the information, which forced the Appellant to prefer the second appeal before the Commission for seeking information.
2. Pursuant to the order dated 08/07/2022, notice under Section 20(1) and 20(2) of the Act was issued to the Respondent PIO

Mr. Patrick Gonsalves to show cause as to why penalty action should not be taken against him for non-furnishing the information.

3. On receipt of the show cause notice dated 15/07/2022, the PIO Mr. Patrick Gonsalves appeared on 11/08/2022 and filed his reply in the matter and submitted that he has sought the details of the second time proceedings of site inspection from Field Surveyor Smt. Sushma K. Naik and sought time to comply the order of the FAA and matter was posted for further hearing on 20/09/2022.
4. That on next date of hearing i.e. on 20/09/2022, the PIO Mr. Partick H. Gonsalves appeared and filed bunch of documents duly furnishing copies to the otherside and submitted that he has furnished the details of the second time proceeding of site inspection dated 04/02/2021 and the Noting Sheets, which narrates the details of the proceeding.
5. I have perused the reply to the show cause notice. Through his reply, he contended that, he joined the office of the Inspector of Survey and Land Records, Salcete, Margao Goa on 19/10/2021 and the proceeding of the partition had originated in the Court of Deputy Collector and Sub-Divisional Office at Salcete, Margao in the year 2018. Since he was not designated PIO at the relevant time he cannot be held responsible personally for any lapses in providing the information.

Further, according to him as per the records the second inspection was done on 04/02/2021 and the report was forwarded to the Court of Deputy Collector and SDO, Salcete, Margao Goa on 09/04/2021.

6. Considering the above, it is evident that all these events had occurred much prior to his joining in the office of the Inspector of Survey and Land Records at Salcete, Margao-Goa and he cannot be

held responsible for non-supplying of the second time proceeding of site inspection.

However, records reveals that soon after receiving the show cause notice from the Commission, he sought the details of the second time proceeding of site inspection from the Field Surveyor, Smt. Sushma K. Naik who was instrumental for drawing the survey plan for partition and after receiving the details he has furnished the details of second time proceedings of site inspection and also the Noting Sheets which narrates the details of the proceedings.

7. It is the contention of the Appellant that, he is not satisfied with the information and the copy of the report submitted in the Court of Deputy Collector and SDO was not furnished to him.

As against this, the PIO submitted that Second time inspection was done on 04/02/2021 and the inspection report was forwarded to the Court of Deputy Collector and SDO, Salcete, Margao, Goa on 09/04/2021 to take the appropriate decision in the matter. Now the said survey report and plan become the part of the Court records, to be exclusively adjudicate by the Court of Deputy Collector and SDO at Salcete, Margao-Goa. Since the above information related to the case pending before the Deputy Collector, the Appellant should obtain such document through that court.

8. Section 2(j) of the Act, the right to information means information accessibly under the Act, which is held by or under the control of any public authority.

These expression mean that the information can be said to be under the control of a public authority only when such public authority holds that information authoritatively and legitimately. In the instant case, a public authority, the Inspector of Survey and

Land Records is only instrumental for drawing the survey plan as directed by the authority and forwarded to its point of origin to take appropriate decision, such information will not qualify to be held or under the control of the public authority. The Appellant should therefore approach the concerned court if he intends to have that information.

9. The PIO also profusely tendered an unconditional apology and expressed his remorse for causing delay in furnishing the information.

10. In view of the fact that existing and available information has been furnished to the Appellant free of cost and in the light of remorse as expressed by the PIO for delay caused in furnishing the information, a lenient view is taken. However, the PIO is made aware that he shall be diligent henceforth in dealing with RTI application. Work load cannot be considered as defence and as such he shall give priority in handling the RTI matters.

Show cause notice dated 15/07/2022 issued in the penalty proceeding is dropped.

- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner