

GOA STATE INFORMATION COMMISSION

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CORAM: Shri Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 215/2021/SCIC

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

..... Appellant

V/s

1. Mr. P. S. Sawant,
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,
O/o. The Assistant Registrar of
Cooperative Societies, Central Zone,
Sahakar Bhavan, 1st Floor, Opp. Municipal
Market, Panaji-Goa, 403001

..... Respondents

Filed on: 01/09/2021
Decided on: 31/05/2022

Relevant dates emerging from appeal:

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| RTI application filed on | : 04/02/2020 |
| PIO replied on | : 25/02/2020 |
| First appeal filed on | : 12/03/2020 |
| First Appellate authority order passed on | : Nil |
| Second appeal received on | : 01/09/2021 |

ORDER

1. The second appeal filed by the appellant 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 01/09/2021. Appellant has prayed for complete information, penal and disciplinary action against the PIO, award of compensation etc.
2. The brief facts of this appeal are that the appellant vide application dated 04/02/2020 sought information on 12 points from the PIO. Not satisfied with the reply dated 25/02/2020, he

filed appeal dated 12/03/2020 before the FAA, which was not decided within the mandatory period. Being aggrieved with both the respondents, appellant approached the Commission by way of second appeal.

3. Pursuant to the notice of the Commission, appellant appeared, as well as PIO and FAA appeared in person. PIO filed reply dated 10/12/2021 and a submission dated 31/01/2022 and another submission dated 05/05/2022. FAA filed reply dated 10/12/2021. Appellant filed rejoinder on 11/01/2020 and later filed another rejoinder dated 23/02/2022.
4. Appellant stated that information requested by him is in public domain, available in the records, yet PIO instead of furnishing the information, requested appellant to visit his office and identify the information. The said PIO is a habitual offender and known for making vague and incorrect statements. Appellant further stated that he could not visit PIO's office due to the restrictions imposed by the Government due to Covid-19 pandemic, however it was his statutory right to receive the information. Appellant also contended that the FAA had verbally cautioned the said PIO in other matter earlier, for not furnishing the information, even then the PIO has remained adamant, disrespecting the provision of the Act.
5. Shri. P. S. Sawant, PIO stated that he has acted on the application and issued a reply to the appellant within the stipulated period. The information requested was vague and in order to facilitate furnishing of the information, the appellant was advised to inspect the records and identify the relevant documents. Even the FAA had advised him to inspect the records and identify the documents. However, appellant refused to visit PIO's office for inspection. Nevertheless, PIO has furnished the available information vide letter dated 03/04/2020 and the appellant may visit PIO's office and identify the documents, if not satisfied with the information provided.
6. Upon perusal of the records, it is seen that the appellant vide application dated 04/02/2020 had requested for information on 12 points including inspection of the complaint file as mentioned in the said application, alongwith the official notings thereon. PIO

vide letter dated 25/02/2020 requested appellant to call on his office to inspect the concerned file and identify the desired documents. PIO wrote another letter dated 18/03/2020 requesting appellant to undertake the inspection. However appellant being a senior citizen, did not visit PIO's office due to Covid-19 pandemic situation. It appears from his application that the information sought is voluminous and his visit would have helped the PIO to identify and furnish the information. Similarly, it is noted that under point No. 5 of the said application, appellant himself had requested for inspection of the complaint files and the official notings thereon. PIO was unable to furnish the said information since the appellant avoided the inspection.

7. The Commission has noted that even though the PIO states that he furnished the available information vide letter dated 03/04/2020, the appellant has challenged the said claim of the PIO by contending that he has not received any such information. The PIO, on the other hand, has not substantiated his statement with documental evidence, hence the Commission does not endorse the claim of the PIO that he has furnished the information.
8. In this circumstances, even though the appellant did not visit the office of the PIO to inspect the records, it was PIO's obligation under section 7(1) of the Act to furnish the available information within the stipulated period , which he did not do. Hence the PIO is guilty of not furnishing the information to the appellant. Similarly, the FAA is required to hear and decide the appeal filed before him, within the mandatory period of 45 days, which the appellate authority failed to do. The FAA is guilty of not complying with the provision of section 19(6) of the Act. However, the Act does not provide for any penal actions against the FAA. Therefore the Commission issues stern warning to the FAA, to dispose the first appeals filed under section 19(1) of the Act, strictly as provided by the law.
9. It is noted that Shri P. S. Sawant, PIO has filed a submission dated 05/05/2022 stating he has retired from the service on superannuation, with effect from the last day of April 2022. Section 11 of the Pension Act, 1871 grants immunity to the pension holder against its attachment. Similarly section 60(1)(g)

of Civil Procedure Code bars attachment of pension benefits. In the present case, Shri. P. S. Sawant, the then PIO, though guilty of not furnishing the information, has retired from service and his retirement benefits are beyond the scope of attachment. Similarly, disciplinary action under section 20(2) of the Act can be initiated during the period of service and not after the retirement.

10. In a similar matter, the Hon'ble Supreme Court, in Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra (Appeal Civil 1874 of 1999) has held:-

"This Court has been repeatedly emphasising the position that pension and gratuity are no longer matters of any bounty to be distributed by the Government but are valuable rights acquired and property in their hands...."

11. Nevertheless, it is statutory right of the appellant to seek the information. On the background of the facts of this case, the appeal is disposed with the following order:-

- (a) The appellant, if desires, may visit the office of the PIO for inspection of the concerned file and identify the information sought by him vide application dated 04/02/2020, within 15 days from receipt of this order.
- (b) The present PIO is directed to provide for the inspection as mentioned above and furnish the information identified by the appellant within 10 days from the date of the inspection.
- (c) FAA is directed to hear and decide first appeals filed under section 19(1) of the Act, strictly in accordance with the law.
- (d) All other prayers are rejected.

Proceeding stand 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