

**GOA STATE INFORMATION COMMISSION**

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**CORAM: Shri Sanjay N. Dhavalikar, State Information Commissioner**

**Appeal No. 28/2022/SIC**

Smt. Agnes D' Silva  
R/o. Madda Wadda,  
Calangute, Bardez-Goa

.....Appellant

**V/s**

The Public Information Officer,  
The Secretary of Village Panchayat of  
Calangute, Bardez-Goa.

.....Respondent

Filed on: 28/01/2022

Decided on: 13/05/2022

**Relevant dates emerging from appeal:**

RTI application filed on	: 26/10/2021
PIO replied on	: Nil
First appeal filed on	: 07/12/2021
First Appellate authority order passed on	: 04/01/2022
Second appeal received on	: 28/01/2022

**ORDER**

1. Aggrieved by the conduct of Respondent Public Information Officer (PIO) of not furnishing the information inspite of clear direction from the First Appellate Authority, appellant Smt. Agnes D Silva preferred second appeal under section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), before the Commission, with various prayers such as complete information and penal action against the PIO.
2. The brief facts of this appeal are that the appellant vide application dated 26/10/2021 sought information on seven points from the PIO. After waiting till the completion of the stipulated period she filed appeal dated 07/12/2021 before the first Appellant Authority (FAA), Block Development Officer, Mapusa. FAA vide order dated 04/01/2022 directed PIO to furnish complete information free of cost. However, PIO did not comply with the order and aggrieved appellant approached the Commission by way of second appeal.
3. Pursuant to the notice, the appellant appeared before the Commission alongwith Advocate Subhechha Azgaonkar alias

Ghate, however PIO did not appear even once, nor filed any reply.

4. Appellant stated that she is a senior citizen, seeking information which is available in the records of the PIO, yet the PIO did not even bother to reply to the application. The conduct of the said PIO is careless and negligent, hence he deserves the punishment provided under the Act. Appellant further stated that copy of FAA's order was presented to the PIO, even than he avoided the disclosure of the information, such an attitude of the PIO has caused hardship to the appellant.
5. Upon perusal of the records of this appeal it is seen that the PIO has not replied the applicant within the stipulated period, which amounts to deemed refusal of the information under section 7(2) of the Act. Further, PIO did not appear before the FAA during the hearing of first appeal and later did not comply with the direction of the FAA. Similarly, the PIO never appeared before the Commission, neither deputed any representative, nor filed any reply.
6. It appears that the information sought by the appellant, is not exempted under section 8 and/ or 9, hence the same is required to be furnished to the appellant, however, the appellant with his adamant attitude has denied the information. In such a case, under section 19(5) of the Act, the onus to prove that a denial was justified was on the PIO, yet he decided not to appear before the FAA and later he evaded appearance before the Commission.
7. The Commission in no way can subscribe to such arrogant conduct of the PIO. The PIO is duty bound to furnish the information as available and as exists in his records. In the present matter the Commission concludes that the PIO has not only failed to adhere to the provisions of the Act, but has also shown complete disrespect to the Act. It can be clearly inferred from the conduct of the PIO that he has no concern to his obligations under the Act, and has no respect to obey the directions of the authorities. Such a conduct of the PIO is obstructing transparency and accountability and appears to be suspicious vis - a - vis the intent of the Act. Such a lapse on the part of the PIO is punishable under section 20 of the Act.

8. Hon'ble High Court of Delhi, in writ petition (C) 3845/2007; Mujibur Rehman V/s Central Information Commission has held:-

*"Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limit have been prescribed in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy".*

9. Subscribing to the ratio laid down in the above mentioned judgment, the Commission concludes that the PIO in the present matter is required to be punished for his mala fide intention in denying the information, not honouring the provisions of the Act as well as for not respecting the authorities under the Act.

10. In the light of the above discussion, the appeal is disposed with the following order:-

- (a) PIO is directed to furnish complete information to the appellant sought vide application dated 26/10/2021, within 15 days from the receipt of this order, free of cost.
- (b) Issue notice to the PIO, Secretary, Village Panchayat Calangute and the PIO is further directed to show cause as to why penalty as provided under section 20(1) and /or 20(2) of the Act should not be imposed against him.
- (c) In case the then PIO is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing , alongwith full name and present address of the then PIO.
- (d) The then PIO, Secretary, Village Panchayat Calangute is hereby directed to remain present on 24/06/2022 at 10. 30 a. m. alongwith the reply to the show cause

notice. The Registry is directed to issue penalty proceeding.

(e) All other prayers are rejected.

Appeal 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