

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website: www.gsic.goa.gov.in

Appeal No. 173/2022/SCIC

Shri. Narayan Datta Naik,
H.No. 278/1 (3), Savorfond,
Sancoale-Goa 403710.

.....Appellant

V/S

Shri. Raghuvir D. Bagkar,
The Public Information Officer,
Village Panchayat of Sancoale,
P.O. Cortalim,
Mormugoa-Goa 403710.

.....Respondent

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 28/06/2022

Decided on: 10/04/2023

FACTS IN BRIEF

1. The Appellant, Shri. Narayan Datta Naik, r/o. H.No. 278/1(3), Savorfond, Sancoale, Mormugao-Goa vide his application dated 08/03/2022 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Office of the Village Panchayat Sancoale, Sancoale-Goa.
2. The said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Appellant filed first appeal before the Block Development Officer at Mormugao-Goa being the First Appellate Authority (FAA) on 11/05/2022.
3. During the pendency of the first appeal, the PIO replied the RTI application on 10/05/2022, informing the Appellate that the information sought for is bulky in nature and that he is ready to give inspection of the records.
4. Meantime, the FAA vide its order dated 30/05/2022 allowed the first appeal and directed the PIO to provide pointwise information to the Appellant free of cost within 10 days.

5. Since the PIO failed and neglected to comply the order of the FAA dated 30/05/2022, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act with the prayer to direct the PIO to furnish the information, to impose penalty on the PIO and to award compensation for the loss suffered to the Appellant.
6. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 20/09/2022, the PIO Shri. Raghuvir Bagkar appeared and filed his reply on 17/10/2022.
7. I have perused the pleadings, reply and scrutinised the documents on record.
8. On perusal of records, it can be seen that the Appellant has filed application under Section 6(1) of the Act on 08/03/2022 which is duly endorsed by the office of public authority on the same day. Section 7(1) of the Act requires the PIO to dispose the request of the information seeker within the stipulated period of 30 days. However, in this peculiar case, the PIO has responded the RTI application on 10/05/2022 without explaining the reasonable cause for delay in responding to the RTI application. He also failed to comply the order of the FAA dated 30/05/2022.
9. It is the version of the PIO through his reply dated 17/10/2022 that information sought was voluminous information and that the PIO is overburdened in dealing with the same. The said reply of the PIO is vague and irrational. The entire spirit and intent of the Act of furnishing the information would be frustrated if said version is accepted. In such circumstances such a version of the PIO cannot be held probable and appropriate.
10. On 23/11/2022, the PIO Shri. Raghuvir Bagkar appeared before the Commission and submitted that he is transferred from the Village Panchayat Sancoale. He failed and neglected to appear

for further hearings vis. 16/12/2022, 27/01/2023, 03/03/2023 and 10/04/2023.

11. In the course of hearing on 27/01/2023, the Appellant appeared and filed the application urging that, he is more interested in obtaining the information from the public authority and prayed that direction be issued to present/ incumbent PIO to furnish the information. In the interest of justice and fairness, the Commission issued notice to the incumbent PIO, Smt. Asha Mesta to appear in the matter.

However the incumbent PIO also failed and neglected to appear in the matter for the reason best known to her.

12. The whole purpose of the Act, is to bring about as much transparency as possible in relation to activities and affairs of public authorities. Section 20 of the Act, clearly lays down that in case the information has not been supplied to the information seeker within the time limit, without any reasonable cause, then the Commission shall impose the penalty.

13. The High Court of Delhi in the case of **State Bank of India v/s Mohd. Shahjahan (W.P. (c) 9810/2009)** has held as under:-

"22. The very object and purpose of the RTI Act is to make the working of public authorities transparent and accountable. For the purpose of the RTI Act, all information held by a public authority is accessible except to the extent such information is expressly exempted from disclosure as provided in the RTI Act itself. In other words, unless the public authority is able to demonstrate why the information held by it should be exempt from disclosure, it should normally be disclosed. The burden, therefore, is entirely on the

public authority to show why the information sought from it should not be disclosed.”

14. In present case, the PIO also failed to comply the order of the FAA dated 30/05/2022. The High Court of Gujarat in the case **Urmish M. Patel v/s State Of Gujarat & Ors. (Special C.A. No. 8376/2010)** has held that, penalty can be imposed if order of the FAA is not complied with by the PIO.
15. The High Court of Kerala in the case **Janilkumar v/s State Information Commission & Ors (LNIND 2012 Ker. 982)**, the Court has held that failure to furnish information is penal under Section 20 of the Act.
16. The High Court of Bombay, Goa bench in the case **Johnson B. Fernandes v/s The Goa State Information Commission & Anr. (2012 (1) ALL MR 186)** has held that, law contemplates supply of information by the PIO to party who seeks it, within the stipulated time, therefore where the information sought was not supplied within 30 days, the imposition of penalty upon the PIO was proper.
17. Considering the ratio laid down by the various High Courts, the Commission comes to the conclusion that, it is a fit case for imposing penalty under Section 20 of the Act against the PIO. However, before any penalty is imposed, the principle of natural justice demands that an explanation be called for from the concerned PIO, as to why he failed to discharge the duty cast upon him as per the RTI Act. I therefore pass the following:-

ORDER

- The Appeal is allowed.
- The incumbent PIO, Smt. Asha Mesta, Secretary of Village Panchayat Sancoale, Mormugao- Goa is hereby directed to

comply the order of the FAA dated 30/05/2022 and furnish point wise reply / information to the Appellant, as per his RTI application dated 08/03/2022 within a period of **FIFTEEN DAYS** from the date of receipt of the order.

- The then PIO, Shri. Raghuvir Bagkar, presently working as a Secretary of Village Panchayat Arpora, Bardez-Goa is hereby directed to show cause as to why penalty should not be imposed on him in terms of Section 20(1) of the Act and / or recommend to initiate disciplinary proceeding against him in terms of Section 20(2) of the Act.
- The reply to the showcause notice is to be filed on **26/06/2023 at 10:30 am.**
- The appeal is disposed accordingly.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner