

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

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Appeal No. 257/2022/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,
Mormugao-Goa 403710.

.....Respondent

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 06/10/2022

Decided on: 24/07/2023

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 17/06/2022 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).
3. The FAA vide its order dated 13/09/2022 allowed the first appeal and directed the PIO to provide pointwise information to the Appellant free of cost within 10 days.
4. The PIO complied with the order of the FAA and furnished pointwise reply on 26/09/2022 and also informed the Appellant to visit the office of the PIO during the office hours and collect the information.

5. According to the Appellant, upon the receipt of the intimation letter collected 236 pages information on 30/09/2022 from the staff of V.P. Sancoale. However, according to the Appellant the information provided to him was incomplete.
6. Aggrieved and not satisfied with the information provided by the PIO, the Appellant filed this second appeal before the Commission under Section 19(3) of the Act with the prayer to direct the PIO to furnish complete information, to impose penalty on the PIO for denying the information.
7. Parties were notified, pursuant to which, the Appellant, Narayan Naik appeared in person on 07/11/2022, the PIO Shri. Raghuvir Bagkar alongwith Adv. Kapil Kerkar appeared and sought time to file reply in the matter.

However, he or his counsel failed to appear for further hearings on 16/03/2023, 25/04/2023, 14/06/2023 and 24/07/2023 or file his reply in the matter.

8. In the course of hearing on 11/01/2023, 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.

9. 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.

10. 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.”

11. 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.
12. The High Court of Kerala in the case **Janilkumar v/s State Information Commission & Ors (LNIND 2012 Ker. 982)**, has held that failure to furnish information is penal under Section 20 of the Act.
13. 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.

14. 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, the Secretary, Village Panchayat Sancoale, Mormugao- Goa is hereby directed to comply the order of the FAA dated 13/09/2022 and furnish point wise reply / information to the Appellant, as per his RTI application dated 17/06/2022 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 **08/09/2023 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