GOA STATE INFORMATION COMMISSION
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Appeal No. 03/2023/SCIC

Mr. Brutano Peixoto,
R/o. H.No. 56/2, Cavorim,
Covatem, Chandor, Salcete,
Goa 403714. .....Appellant

V/S

1. The Public Information Officer (PIO),
Office of Superintendent,
Administration Branch,
Police Head Quarters,
Panaji-Goa 403001.

2. The First Appellate Authority,
Superintendent of Police,
Head Quarters, Panaji-Goa. .....Respondents

Shri. Vishwas R. Satarkar State Chief Information Commissioner

Filed on: 04/01/2023
Decided on: 16/05/2023

ORDER

1. The Appellant, Mr, Brutano Peixoto, r/o. H.No. 56/2, Cavorim, Covatem, Chandor, Salcete-Goa vide his application dated 15/09/2022 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), O/o. The Director General of Police, Police Head Quarters, Panaji-Goa.

2. The said application was responded by the PIO on 17/10/2022, in the following manner:-

> *"Please refer to your application dated 15.09.2022 on the subject cited above, The same was received in this office on 19.09.2022.*
>
> *The information pertaining to this Office and available on records of this Officer is as under:-*

Pt. No.	*Question*	*Reply*
1.	*As per your application point no. 1*	*Presently, file is not traceable, information will be provided once the file is traceable.*
2.	*As per your application point no. 2 & 3*	*Information is not available on records of this office.*
3.	*As per your application point no. 4*	*Presently, file is not traceable, information will be provided once the file is traceable.*

3. Not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Superintendent of Police, Head Quarters at Panaji-Goa on 21/10/2022, being the First Appellate Authority (FAA).

4. The FAA vide its order allowed the first appeal on 10/11/2022 and directed the PIO to search for the file thoroughly and furnish the information within 15 days.

5. Since the PIO failed to comply with the order of the FAA dated 10/11/2022, the Appellant landed before the Commission with this second appeal under Section 19(3) of the Act.

6. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 14/02/2023, representative of the PIO, Shri. Deepak Nipanikar appeared and placed on record written submission of the PIO on 14/02/2023 and submitted that he has furnished all the available information to the Appellant by Registered A/D on 07/12/2022, therefore, matter was posted for clarification.

7. In the course of hearing on 24/04/2023, the Appellant Brutano Peixoto appeared and admitted that he received the information and that he is satisfied with the information provided by the PIO. However, stressed upon to impose penalty on the PIO for causing delay in furnishing the information.

8. Therefore, a question that arises for consideration of the Commission is whether the delay caused in furnishing the information was deliberate and/or intentional which merits imposition of penalty.

9. A perusal of records reveal that, the Appellant filed his RTI application on 15/09/2022 and was responded by the PIO on 17/10/2022 i.e within stipulated time. Through said reply, the PIO did not deny the information, however, sought time to trace the file.

10. It is also a matter of fact that, upon receipt of the notice of this second appeal, the representative of the PIO, Shri. Deepak Nipanikar appeared on 14/02/2023 and submitted that he has complied with the order of the FAA and furnished all the available information to the Appellant free of cost by Registered Post.

11. Having gone through the entire material on record, it indicates that the Appellant, the PIO and the FAA are working in the same Department and holding high status/ positions in the public authority. However, there is lack of trust and coordination amongst them in the office of the Police Department. In fact the matter is purely a grievance issue and can be addressed through the grievance redressal mechanism by taking up the matter with concerned higher authorities or to approach an appropriate court of law for legal remedy. Be that as it may.

12. Every statute functions and operates with its scope and ambit. Section 19 of the Act provides information seeker a mechanism with which he can seek redressal of grievance of non-disclosure of information.

In the present case, the Appellant not satisfied with the reply of the PIO, preferred first appeal. The FAA upon considering the merit of the case, allowed the first appeal and directed the PIO to

furnish the information within a period of fifteen days. The PIO complied the order of the FAA and furnished the purported information to the Appellant. Since the information has been furnished by the PIO, I hold that nothing survives in the appeal.

13. It is true and correct that there is delay in furnishing the information, however, same is marginal delay. The High Court of Bombay, Goa Bench at Panaji in the case **Public Authority Officer of Chief Engineer, Panaji v/s Shri. Yeshwant Talio Sawant (W.P. No. 704/2012)** while considering the scope of imposing penalty has observed as under:-

> *"6. However in the present case, the learned Chief Information Commissioner has himself noted that the delay was marginal and further the PIO cannot be blamed for the same. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such penalty is a blot upon the career of the Officer, at least to some extent. In any case the information was furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."*

14. In another judgement the Hon'ble high Court of Bombay at Goa Bench in the case **Shri. A.A. Parulekar v/s Goa State Information Commission & Ors. (W.P. No. 205/2007)** has observed:-

> *"11..... The order of penalty for failure is akin to action under criminal law. It is necessary to ensure that the*

failure to supply the information is either intentional or deliberate."

In the case in hand, the RTI application dated 15/09/2022 was responded by the PIO on 17/10/2022, that is within stipulated period. This is not the case where the PIO was unwilling to provide the information to the Appellant. Considering the fact and circumstances, I am of the opinion that there was no malafide intention in non-furnishing the information. I am therefore not inclined to grant the relief prayed by the Appellant.

15. The Appellant also prayed that, he may be compensated for delay in providing the information. However, he did not make out any specific plea for amount of loss incurred or shown actual quantum of damage caused to him. Such a relief cannot be granted to the Appellant being irrational and unfounded. The Hon'ble High Court of Bombay, Goa Bench in recent judgement in the case **Santana Nazareth v/s State of Goa & Ors. (2022 (6) ALL MR 102)** has held as under:-

"4..... compensation as in Section 19(8)(b) is intended to be provided to the information seeker by the public authority on proof of loss or sufferance of detriment by the former because of negligence, carelessness or recalcitrance of the later. Merely because the petitioner was found to have suffered hardship did not entitle her to payment of compensation unless a case of loss or sufferance of detriment was specifically set up in the appeal."

16. Considering the facts and circumstances hereinabove and since all the available information has been furnished to the Appellant by the PIO, I hold that nothing survives in the appeal. Accordingly the matter is disposed off.

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

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner