

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

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Appeal No. 109/2022/SCIC

Shri. Deepak Gracias,
R/o. Karishma Apartments, 'C' Block,
Near Cine Vishant, Aquem,
Margao, Goa 403601.

.....Appellant

V/S

1. The First Appellate Authority,
The Director of Municipal Administration
(Urban Development),
Dempo Towers, 1st Floor, EDC,
Patto, Panaji-Goa 403001.

2. The Public Information Officer,
The Director of Municipal Administration
(Urban Development),
Dempo Towers, 1st Floor, EDC,
Patto, Panaji-Goa 403001.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 12/04/2022

Decided on: 09/05/2023

FACTS IN BRIEF

1. The Appellant, Shri. Deepak Gracias, r/o. Karishma Apartments, 'C' Block, Near Cine Vishant, Aquem, Margao-Goa vide his application dated 17/12/2021 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), the Director of Municipal Administration, Dempo Towers, Panaji-Goa.
2. The said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Appellant preferred first appeal before the Director of Urban Development at Panaji-Goa being the First Appellate Authority (FAA) on 25/01/2022.

3. Since the FAA also failed and neglected to dispose the first appeal within stipulated time, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act.
4. Notices were issued to the parties, pursuant to which, Appellant Deepak Gracias appeared in person, representative of the PIO and FAA, Adv. F. Saba appeared on 22/06/2022 and undertook to file her wakalatanama and reply, however, none appeared on behalf of the PIO and FAA for subsequent further hearings viz 23/08/2022, 27/09/2022, 01/12/2022, 10/01/2023, 14/02/2023, 15/03/2023, 17/04/2023 and 09/05/2023.
5. A perusal of records indicate that, the Appellant has filed application under Section 6(1) of the Act on 17/12/2021 which is duly endorsed by the office of the Director of Municipal Administration on same day. Section 7(1) of the Act, requires the PIO to dispose the request of the information seeker within 30 days.

However, in the present case, the PIO has failed to send a reply to the RTI application. The FAA also failed to dispose the first appeal within stipulated period as mandated under the Act.

6. Upon the receipt of the notice of this second appeal, representative of the PIO appeared on 12/05/2022 and collected the copy of the appeal memo. However, despite ample opportunities, the PIO failed and neglected either to file his reply or remain present for hearings, thus shown complete lack of concern to the process of RTI Act and has failed to discharge his duty and responsibility which amounts to sheer abuse of the process of law.
7. 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.

8. 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."

9. 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.

10. 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.

11. 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 following:-

ORDER

- The appeal is allowed.
- The PIO, Office of the Director of Municipal Administration, Dempo Towers, 1st Floor, Patto, Panaji-Goa is hereby directed to furnish pointwise reply to the RTI application of the Appellant dated 17/12/2021 within **FIFTEEN DAYS** from the receipt of the order.
- The PIO, Office of the Director of Municipal Administration (Urban Development), Patto, Panaji-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.
- The reply to the showcause notice is to filed on **04/07/2023 at 10:30 am.**
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner