

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

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Appeal No. 213/2022/SCIC

Mr. Bharat L. Candolkar,
R/o. Vady Candolim,
Bardez-Goa.

.....Appellant

V/S

1. The Public Information Officer,
Secretary,
Village Panchayat Candolim,
Candolim, Bardez-Goa.

2. The First Appellate Authority,
Block Development Authority,
Mapusa, Bardez-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 02/08/2022

Decided on: 09/02/2023

FACTS IN BRIEF

1. The Appellant, Shri. Bharat L. Candolkar r/o. Vady Candolim, Bardez-Goa vide application dated 08/04/2022 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), Secretary, Village Panchayat Candolim, Bardez-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-II, being the First Appellant Authority (FAA).
3. The FAA by its order dated 21/06/2022 allowed the first appeal and directed the PIO to provide the inspection of records and furnish the information free of cost to Appellant within 15 days.

4. Since the PIO failed and neglected to comply the order of the FAA dated 21/06/2022, the Appellant landed before the Commission with second appeal under Section 19(3) of the Act with the prayer to direct the PIO to furnish the information free of cost, to provide inspection of file, to impose penalty against the PIO for non-furnishing the information, to recommend disciplinary action against the PIO and to award compensation.
5. Notices were issued to the parties, pursuant to which the Appellant remained present for hearing alongwith Adv. A. P. Mandrekar. The PIO though duly served, failed and neglected to appear before the Commission. The representative of the FAA, Shri. Chetan Salgaonkar appeared however, opted not to file any reply in the matter.
6. Despite ample opportunities, granted to the PIO, the PIO failed and neglected to appear for the hearings viz. 23/09/2022, 25/10/2022, 07/11/2022, 29/11/2022, 06/01/2023 and 09/02/2023, hence the the present appeal is disposed considering the documents on record and on the basis of submissions of the Appellant.
7. I have perused the RTI application dated 08/04/2022 which was duly inwards in the office of the 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 particluar case, the PIO has failed and neglected to respond to the RTI application within stipulated time.
8. Records indicate that, the PIO also did not appear before the FAA in the first appeal. He also failed to comply the order of the FAA dated 21/06/2022, thus shown complete lack of concern to the process of RTI Act and failed to discharge his responsibility and duty under the Act, which amounts to sheer abuse of process of law.

9. The whole purpose of the Act, is to bring about as much transparency as possible in relation to the 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. The High court of Gujarat in the case **Urmish M. Patel v/s State of Gujarat (LNIND 2010 Guj. 2222)** has held that penalty can be imposed if order of the FAA is not complied with. The relevant para No. 8 is reproduced herein:-

"8.....Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order, the petitioner was duty bound to implement the same,

whether it was a speaking order or the appellate authority was passing the same after following the procedure or whether there was legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty. ”

12. 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.
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 following:-

ORDER

- The Appeal is allowed.
- The PIO, the Secretary of Village Panchayat Candolim, Bardez-Goa is hereby directed to comply the order of the FAA dated 21/06/2022 and furnish the information to the

Appellant free of cost, within a period of **FIFTEEN DAYS** from the receipt of the order.

- The PIO, the Secretary of Village Panchayat Candolim, Bardez-Goa is hereby directed to show cause as to why penalty should not be imposed on him in terms of Section 20(1) and / or recommend for disciplinary proceeding against him in terms of Section 20(2) of the Act.
- The reply to the show cause notice to be filed on **29/03/2023 at 10:30 am.**
- The appeal stands disposed accordingly.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner