

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No. 259/2023/SCIC

Shri. Dina V. Goltekar,
Maina, Sodiem, Siolim,
Bardez-Goa 403517.

.....Appellant

V/S

1. The Public Information Officer,
The Secretary of Village Panchayat,
Siolim- Sodiem, Bardez-Goa 403517.

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

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 01/08/2023

Decided on: 06/11/2023

ORDER

1. The Appellant Shri. Dina V. Goltekar, r/o. Maina, Sodiem, Siolim, Bardez-Goa vide his application dated 09/02/2023 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 Secretary Village Panchayat Siolim- Sodiem, Bardez-Goa.
2. The said application was responded by the PIO on 08/03/2023 in the following manner:-

"With reference to your letter dated 09-02-2023, received by this office on 09-02-2023 vide inward No. 1808, on the above cited subject, in this connection you are hereby requested to collect the information from Village Panchayat office during office working hours after paying necessary fees towards the same."

3. Being aggrieved and not satisfied with the reply and information provided by the PIO, the Appellant filed first appeal before the

Block Development Officer-I, Bardez, Mapusa-Goa, being the First Appellate Authority (FAA).

4. The FAA vide its order dated 09/05/2023 allowed the first appeal and directed the PIO to furnish the rest of the information free of cost to the Appellant, within five days.
5. Since the PIO failed and neglected to comply with the order of the FAA dated 09/05/2023, the Appellant landed before the Commission by way of this second appeal under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information, to impose penalty for not providing the required information, to initiate disciplinary action against the PIO and to award the compensation for wasting valuable time and money of the Appellant.
6. Notices were issued to the parties, pursuant to which, Adv. Krupa Naik appeared on behalf of the Appellant on 06/09/2023, the PIO, Shri. Akhil Mahalker appeared and filed his reply on 06/09/2023 and furnished a bunch of documents to the Appellant and submitted that he has complied with the order of the FAA and furnished all the information to the Appellant. Adv. K. Naik sought time to scrutinise the information provided by the PIO and matter was posted for clarification/ order on 16/10/2023.
7. In the course of hearing on 16/10/2023, Adv. A. D'Souza appeared on behalf of the Appellant and submitted that though the information has been provided by the PIO, no information has been provided with regards to point No. 7, i.e. action taken report in respect of illegal construction of compound wall. For the sake of justice, the Commission directed the PIO to clarify the query raised by the Appellant and matter was posted for further compliance on 26/10/2023.

8. During the course of hearing on 26/10/2023, PIO, Akhil Mahalker appeared and filed additional reply on 26/10/2023. Off late representative of the Appellant Ms. Shubra Shirodkar appeared and collected the copy of the additional reply and matter was posted for arguments on 03/11/2023.
9. In the course of arguments on 03/11/2023, the PIO appeared and pointed out the content of the additional reply dated 26/10/2023 and submitted that some of the documents sought by the Appellant were in godown of the Panchayat and hence there was delay caused in locating the said information. He further contended that, by complying with the order of the FAA, he addressed a letter to the Appellant, however said remained in the office file due to inadvertence. He further pointed out that upon the receipt of the complaint, the public authority carried out the Panchanama of the alleged illegal compound wall and had drawn a rough sketch on 19/02/2019 and thereafter reported the matter to the Block Development Officer on 17/04/2019 and he produced on record the copy of the letter dated 17/04/2019. Since none appeared, the matter was posted for clarification/ order on 06/11/2023. Off late Adv. A. D'Souza appeared and filed his written arguments dated 03/11/2023 alongwith copy to the otherside. Even after conclusion of arguments for sake of justice same is taken on record.
10. The Appellant through his written arguments contended that, the PIO has agreed before the FAA on 09/05/2023 that he will provide the information to the Appellant, however, the PIO miserably failed to comply with the order of the FAA and he withheld the information with malafide intention.

The Appellant further contended that, by representation dated 14/07/2023 he once again reminded the PIO to provide the information, however, the PIO refused to provide the rest of the information and therefore he is liable for penal action.

11. Having gone through the entire material on record, it reveals that the PIO has failed to comply with the order of the FAA dated 09/05/2023. The Hon'ble High Court of Gujarat in the **case Urmish M. Patel v/s State of Gujarat (LNIND 2010 Guj. 2222)** has held as under:-

""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 PIO has thus shown lack of concern to the process of RTI Act, and has not shown any reasonable explanation for the delay caused in furnishing the information. The RTI Act cannot be allowed to stand on the foundation of irresponsibility and negligence. The whole purpose of the Act is to bring about as much transparency as possible in relation to activities and affairs of public authorities.
13. In the present matter, though all the information was provided to the Appellant in this second appeal, the PIO cannot be exonerated from his legal obligation under the RTI Act. The PIO also did not reasonably explain the delay in furnishing the information, apart from that there is no remorse for his inaction, which is not acceptable.

14. Due to casual and irresponsible approach of the PIO, the Appellant who is the senior citizen was put to unnecessary hardship and was made to run from pillar to post to get the information and had to waste his time, energy and money. Harassment of common man by the PIO is socially abhorring and legally impermissible. However, I find it appropriate to warn the PIO, Shri. Akhil L. Mahalker that he should be careful in future in dealing with the RTI matters with due caution and sanctity.
15. However, since the available information has been provided free of cost to the Appellant in this second appeal, I am not inclined to impose penalty on the PIO as prayed by the Appellant.
16. The Appellant further prayed that, the PIO be directed to pay compensation for wasting valuable time and money. However, the Appellant did not make out any specific plea for amount of loss or shown the quantum of actual 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)** paragraph 4 of the said judgement being relevant is quoted below:-

"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."

For the above reason, I am not inclined to grant the relief at prayer (C) of the appeal.

17. Considering the facts that, all the available information has been furnished free of cost to the Appellant, the matter is disposed off.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner