

GOA STATE INFORMATION COMMISSION

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Appeal No. 91/2022/SCIC

Shri. Jawaharlal T. Shetye,
H.No. 35/A, Ward No.11,
Khorlim, Mapusa-Goa. 403507.

.....Appellant

V/S

1. The Public Information officer,
Administrator of Comunidades of North Zone,
Mapusa, Bardez-Goa.

2. The First Appellate Authority,
The Additional Collector-III,
Mapusa, Bardez-Goa. 403507.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 17/03/2022

Decided on: 08/05/2023

FACTS IN BRIEF

1. The Appellant, Shri. Jawaharlal T. Shetye, r/o H.No. 35/A, Ward No.11, Khorlim, Mapusa-Goa by his application dated 01/12/2021 filed under Sec 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 Administrator of Comunidade, North Zone at Mapusa, 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 under Section 19(1) of the Act, before the Additional Collector-III, North Goa District, Mapusa, Bardez-Goa being the First Appellate Authority (FAA).
3. The FAA by its order dated 25/01/2022 allowed the first appeal and directed the PIO to provide the information to the Appellant free of cost within 15 days.
4. Since the PIO failed and neglected to comply the order of the FAA dated 25/01/2022, the Appellant filed this second appeal before

the Commission under Sec 19(3) of the Act, with prayer to direct the PIO to furnish the information, to impose the penalty and to recommend disciplinary action against the PIO for denying the information.

5. Notice was issued to the parties, pursuant to which Adv. Sanjiv Sawant appeared on behalf of the PIO and filed his wakalatanama on 02/06/2022 and sought time to file his reply in the matter. The FAA duly served chose not to appear and file his reply.
6. Perused the pleadings and scrutinized the documents on record.
7. Upon perusal of the copy of the RTI application, it is revealed that the same was filed on 01/12/2021 which was duly inwarded in the public office on same day.
8. Under Section 7(1) of the Act, the PIO is required to dispose the request of the seeker within 30 days. Disposal of request may result in furnishing of information on payment of fees or rejection of request on ground as mentioned in Section 8 and/or 9 of the Act. Therefore, it was bounden duty of the PIO to furnish the information on before 31/12/2021. However, the PIO has miserably failed to respond the RTI application of the Appellant.
9. The PIO also failed and neglected to comply with the order of the FAA dated 25/01/2022.
10. After receiving the notice of this second appeal, Adv. Sanjiv Sawant appeared on behalf of the PIO and sought time to file reply on 08/11/2022, however, he failed to appear for subsequent hearings viz. 22/12/2022, 02/02/2023, 06/03/2023, 11/04/2023 and 08/05/2023 and place his reply on record.
11. The whole purpose of the Act is to secure access of information under the control of public authorities in order to

promote transparency and accountability in the working of every public authority.

12. Section 20 of the Act, clearly lays down that in case the information has not been furnished within the time specified under Section 7(1) of the Act, then the Commission shall impose penalty of two hundred and fifty rupees each day till information is furnished from the date of application.
13. The High Court of Gujarat in the case **Umesh M. Patel v/s State of Gujarat (Spe. C. A. No. 8376/2010)** has held that, penalty can be imposed if order of the FAA is not complied with, by the PIO.
14. The High Court of Bombay, Goa bench in case of **Johnson B. Fernandes v/s The Goa State Information Commission & Another (2012 (1) ALL MR 186)** has held that, law contemplates supply of information by PIO to party who seek 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.

In an another identical judgement of **Janilkumar v/s State Information Commission & Ors (LNIND 2012 KER 982)**, the High Court of Kerala has held that failure to furnish information is penal under Section 20 of the RTI Act.

15. Considering the ratio laid down by the various High Courts, the Commission comes to the conclusion that this is a fit case for imposing penalty under Section 20 of the Act against the then PIO, Shri. Sagar Gaude. 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. The Appellant has not

furnished the information inspite the same is available in the records of the public authority. I therefore pass the following:-

ORDER

- The appeal is allowed.
- The incumbent PIO, Shri. Shivprasad Naik, the Administrator of Comunidades, North Zone, Mapusa Goa is hereby directed to comply with the order of the FAA dated 25/01/2022 within **FIFTEEN DAYS** from the receipt of the order.
- Shri. Sagar Gaude, the then PIO, the Administrator of Comunidades, North Zone, Mapusa, Bardez-Goa is hereby directed to show cause as to why penalty should not be imposed on him in term of Section 20(1) and to recommend disciplinary action as contemplated under Section 20(2) of the Act for denying the information to the Appellant.
- The reply to the show cause notice is to be filed on **30/06/2023 at 10:30 am.**
- The appeal disposed accordingly.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner