

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 260/2023/SIC

Adv. Navdeep Aguiar,
R/o Ashray, Row Villa No.1,
Aditya Vihar Complex,
Sonarbhat, Verem, Bardez-Goa 403114.

-----Appellant

v/s

1. The Public Information Officer (PIO),
Village Panchayat of Reis Magos,
Bardez-Goa 403114.

2. Block Development Officer (BDO),
Office of Block Development Officer,
Mapusa-Goa 403507.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 02/05/2023
PIO replied on	: 11/05/2023
First appeal filed on	: 13/06/2023
First Appellate Authority order passed on	: 07/07/2023
Second appeal received on	: 24/07/2023
Decided on	: 18/12/2023

ORDER

1. The second appeal filed by the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), against Respondent No. 1, Public Information Officer (PIO), Village Panchayat of Reis Magos and Respondent No. 2, First Appellate Authority (FAA), Block Development Officer, Mapusa Goa, came before the Commission on 24/07/2023.
2. It is the contention of the appellant that, the PIO failed to furnish the information within the stipulated period of 30 days, thus, he filed first appeal against the PIO. During the hearing before the FAA on 07/07/2023 PIO appeared and submitted the information/ documents sought by him. Since, the information was provided beyond the period of 30 days, appellant pressed for penal action against the PIO. However, the appeal was disposed with observation by the FAA that the power to impose penalty is with SIC/ CIC as the case may as per Section 20 (1) of the RTI Act.
3. Appellant further contended that, the reply submitted by the PIO alongwith the information before the FAA on 07/07/2023 was back

dated i.e. 11/05/2023. That, the PIO malafidely did not provide the information and did not send the reply dated 11/05/2023 to the appellant. Hence, he has appeared before the Commission praying for penal action against the PIO under Section 20 (1) and 20 (2) of the Act.

4. The concerned parties were notified and the matter was taken up for hearing. Shri. Keshav Phadte, the present PIO, Village Panchayat Reis Magos appeared in person and filed reply on 05/10/2023. Appellant appeared in person and on 25/10/2023 filed rejoinder to the reply of the PIO.
5. PIO stated that, Shri. Peter Martins, the then PIO had verbally informed the appellant to collect the information and the appellant had agreed to collect the same. Thereafter, the appellant filed first appeal. That, the present PIO provided the information to the appellant before the FAA on 07/07/2023, free of cost. PIO further submitted that the delay in furnishing the information was not deliberate, but the same was due to miscommunication.
6. Appellant stated that, the then PIO has admitted that intimation as per Section 7 of the Act providing details of fees required to be paid, particulars of appellate authority, time limit for filing appeal etc was not sent to the appellant, and the information was furnished after expiry of the stipulated period. Hence, he prays for penal and disciplinary action against the PIO.
7. Upon perusal of the records of the present matter it is seen that, the appellant is basically aggrieved by no reply to his application within the stipulated period and delay in furnishing the information by the PIO. At the same time it is seen that, the then PIO as well as the present PIO contends that the appellant was informed verbally and the appellant had agreed to collect the information from PIO's office, which is denied by the appellant.
8. As per the contention of the PIO, since the communication to the appellant was verbal, there is no evidence on record to prove that the PIO had actually informed the appellant. Here, the Commission finds the PIO guilty of not issuing reply to the appellant within the stipulated period, giving details of fees, appellate authority etc.
9. However, the present PIO during the hearing on 07/07/2023 produced the information before the FAA, which was furnished to the appellant free of cost. The present PIO also stated that the said

information was kept ready by the then PIO, yet the same could not be furnished earlier only because of miscommunication. Thus, the Commission finds that there was no intentional denial of the information on the part of the PIO.

10. Hon'ble High Court of Bombay at Goa bench, in writ Petition No. 205/2007, Shri. A. A. Parulekar V/s Goa State Information Commission, has held that:-

"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."

11. Hon'ble High Court of Bombay, Goa bench at Panaji, in Writ Petition No. 488 of 2011 (Shri. Shivanand Salekar and others V/s The Goa State Information Commission and other) has held:

"That apart, in the present case, the delay is really not very substantial. The information was applied on 26/10/2009 and therefore, the same had to be furnished by 25/11/2009. On 30/11/2009 itself the complainant made his complaint and no sooner, the petitioner on 15/01/2010 actually furnished the information. If all such circumstances considered cumulatively and the law laid down by this Court in the case of A. A. Parulekar (supra) is applied, then, it does appear that there was no justification for imposing penalty of Rs. 6,000/- upon the petitioner."

12. In the present matter the information was applied on 02/05/2023, thus, the same had to be furnished by 01/06/2023. Further, appellant filed first appeal on 13/06/2023 and no sooner, the PIO on 07/07/2023 furnished the information free of cost. The said delay in furnishing the information is marginal, hence may be condoned.

13. Subscribing to the ratio laid down by the Hon'ble High Court of Mumbai at Goa Bench, as mentioned at Para 10 and 11 and considering the facts of the present case, the Commission concludes that the PIO, though after marginal delay, has furnished the information to the appellant. Also, no malafide on the part of the PIO has been established, thus, invoking of Section 20 of the Act against the PIO is not warranted .

14. Hence, the instant appeal is devoid of merit and the same is disposed as dismissed.

Proceeding stands closed.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the order should be given to the parties free of cost.

Aggrieved party if any, may move against this order by way of a Writ Petition, as no further appeal is provided against this order under the Right to Information Act, 2005.

Sd/-

Sanjay N. Dhavalikar

State Information Commissioner
Goa State Information Commission,
Panaji-Goa.