

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 308/2022/SIC

Shri. Narayan Datta Naik,
H.No. 278/1 (3),
Savorfond, Sancoale,
403710.

-----Appellant

v/s

Shri. Raghuvir D. Bagkar,
Public Information Officer,
Village Panchayat Sancoale,
Pin Code No. 403710.

-----Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 22/08/2022
PIO replied on	: Nil
First appeal filed on	: 27/09/2022
First Appellate Authority order passed on	: 01/11/2022
Second appeal received on	: 08/12/2022
Decided on	: 15/05/2023

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 Shri. Raghuvir D. Bagkar, Public Information Officer (PIO), Village Panchayat Sancoale, came before the Commission on 08/12/2022.
2. It is the contention of the appellant that the PIO did not furnish him any information within the stipulated period. The first appeal preferred by the appellant was disposed by the First Appellate Authority (FAA) with direction to PIO to provide point wise information within 15 days. It is the contention of the appellant that the PIO did not comply with the said direction and being aggrieved, he has appeared before the Commission by way of second appeal.
3. The concerned parties were notified, pursuant to which the appellant appeared and pressed for information as well as penal action against the PIO and also compensation from the PIO. Appellant filed submission dated 11/01/2023. Respondent Shri. Raghuvir D. Bagkar, the then PIO failed to appear before the Commission, whereas, Smt. Asha S. Mesta, succeeding PIO appeared in person and filed reply in the registry on 31/03/2023.

4. Appellant vide submission dated 11/01/2023 stated that, Shri. Raghuvir D. Bagkar was the PIO/ Secretary of Village Panchayat on the day of the application and he intentionally denied the information. Appellant further submitted that, because of the denial of the request he was compelled to approach the appellate authorities, hence, he prays for compensation towards the expenses he has incurred and penal action against the PIO.

Appellant also requested the Commission to direct Smt. Asha Mesta, the present PIO to provide the information sought by him and recover the expenses incurred in this matter by Village Panchayat Sancoale, from Shri. Raghuvir D. Bagkar, the then PIO.

5. Smt. Asha S. Mesta, PIO stated that she was not party to the proceeding before the FAA, hence proceeding against her is not maintainable. She took charge as Secretary of Village Panchayat Sancoale from Shri. Raghuvir D. Bagkar upon his transfer, and is also now transferred from Village Panchayat Sancoale.

Smt. Asha S. Mesta further stated that, the appellant has been filing numerous applications under the Act seeking bulky information and certified copies of documents running into hundreds of pages. The said act of the appellant is only aimed to harass the Secretary of the Village Panchayat, hence, the appellant is not entitled to any of the relief as prayed by him.

6. While perusing the records of the present matter, the Commission looks into the application filed by the appellant before the PIO on 22/08/2022. The said application states:-

Kindly furnish me below mentioned information pertaining to the Notification 34/DP/PAN/ZP/2015 Published on 17/12/2015, Official Gazette-Govt of Goa by the Department of Panchayat Raj & Community Development, Directorate of Panchayat towards expenditure to be incurred from Panchayat fund or ZP fund. Till validity of this notification.

(1) Kindly furnish me that Notification 34/DP/PAN/ZP/2015 Published on 17/12/2015, Official Gazette-Govt of Goa by the Department of Panchayat Raj & Community Development, Directorate of Panchayat is still in force. If so then kindly furnish me details of information on below mentioned points. If not then furnish the information till validity date of the notification.

(A) Payment of rent paid by your office in each month on occupation of building for Panchayat office.

(B) Total additional amount paid by your office on Panchayat office rent as on date i.e. expenditure incurred above the

Panchayat office limit & without previous permission from the Government.

- (C) Expenditure incurred on occupation of Panchayat office building on rent was above the Village Panchayat Limit. If so then kindly furnish me copy of previous permission obtained by your office from the Government.*
 - (D) Name the concerned officials / Sarpanch responsible for payment of Panchayat office rent above the Village Panchayat office limit & without previous permission from the Government.*
- (2) Kindly inform me that purchase of furniture in each financial years was incurred by your office above the Village Panchayat limit & without previous permission from the Government during the tenure of last V.P. body. If so then furnish me copies of all details.*
- (A) Additional amount spend / incurred on purchase of furniture during each financial years without previous permission from the Government during the tenure of last V.P. body.*
 - (B) Furnish me name of the concerned officials / Sarpanch responsible for purchase of furniture above the Village Panchayat office limit & without previous permission from the Government during the tenure of last V.P. body.*
- (3) Kindly inform me that purchase of stationery in each financial years was incurred by your office above the Village Panchayat limit & without previous permission from the Government during the tenure of last V.P. body. If so then furnish me copies of all details.*
- (A) Additional amount spend / incurred on purchase of stationery during each financial years without previous permission from the Government during the tenure of last V.P. body.*
 - (B) Furnish me name of the concerned officials / Sarpanch responsible for purchase of stationery above the Village Panchayat office limit & without previous permission from the Government during the tenure of last V.P. body.*
- (4) Kindly inform me that expenditure for provisions of tea or light refreshment during each meeting of Panchayat body was incurred by your office above the Village Panchayat limit & without previous permission from the Government during the tenure of last V.P. body. If so then furnish me copies of all details.*
- (A) Additional amount spend / incurred on tea or light refreshment during each Panchayat body meeting without previous permission from the Government during the tenure of last V.P. body.*

(B) Furnish me name of the concerned officials / sarpanch responsible for incurring additional amount on tea or light refreshment during each Panchayat body meeting i.e. above the Village Panchayat office limit & without previous permission from the Government during the tenure of last V.P. body.

(5) Kindly inform me that expenditure on Gramsabha meeting & raising of Shamiyana for each meeting was incurred above the Village Panchayat limit & without previous permission from the Government during the tenure of last V.P. body. If so then furnish me copies of all details.

(A) Additional amount spend/ incurred on each Gramsabha meeting & raising of Shamiyana for meeting without previous permission from the Government during the tenure of last V.P. body.

(B) Furnish me name of the concerned officials / Sarpanch responsible for incurring additional expenditure on Gramsabha meeting & raising of Shamiyana for meeting, above the Village Panchayat office limit & without previous permission from the Government during the tenure of last V.P. body.

7. Upon perusal of the above mentioned application it appears that the appellant has sought various details pertaining to the Notification 34/DP/PAN/ZP/2015 published on 17/2/2015, Official Gazette, Government of Goa by Directorate of Panchayats towards expenditure to be incurred from Panchayat Fund or ZP fund till the validity of this notification. Details sought are such as rent paid by Panchayat in each month, additional amount paid as rent, details of purchase of furniture in each financial year, purchase of stationery, provision and expenditure for tea and light refreshment during each meeting of Panchayat body, expenditure on Gramsabha meetings and raising of Shamiyana for each meeting etc.

The information requested pertains to almost every detail of expenditure/ amount spent on office rent, purchase of furniture, stationery amount spent on tea and refreshment during meeting of Panchayat body expenditure of Gramsabhas, Officials / Sarpanch responsible for the spending etc. Similarly, appellant has sought the said details from the date of publication of notification, i.e. from 17/12/2015, meaning for the period of 6 to 7 years. The Commission finds that the said information sought by the appellant is indeed bulky, voluminous and time consuming. The Commission endorses the fact that for the PIO, with his limited manpower in the Panchayat office, it is not possible to furnish the said voluminous information, also while carrying out day to day functioning of his office.

It would have been better for the appellant to seek inspection of the relevant records by visiting PIO's office and identify the required information and request the PIO to furnish the same.

8. Appellant has contended that he is seeking the said information in larger public interest, to unearth corrupt practices taking place in the authority. He stated that only when the PIO provides the requested information, he can study the matter and accordingly proceed with further course of action.

Here, the Commission is of the view that the appellant, if is really serious about exposing the illegalities as claimed by him, should have requested the PIO to provide for inspection of the records, identified the information; such an action would have compelled the PIO to furnish the identified information. However, appellant chose to put entire burden of identifying and furnishing voluminous information on the PIO. Also, the information sought pertains to various subjects and many events and it is very difficult for the PIO to satisfy the appellant seeking such voluminous information.

9. It is observed by the Commission that, the same appellant has been seeking all and sundry information, making indiscriminate requests to the PIO under the garb of exposing corrupt and illegal practices, however, the appellant nowhere has given any specific progress of unearthing corrupt practices or cases by the PIO or Sarpanch or any other officer of the public authority. Appellant should have been more specific and clear while making his contention regarding corrupt and illegal practices which would have substantiated his contention. However, the appellant has not succeeded in bringing to the fore, the larger public interest in seeking such bulky and voluminous information.
10. Nevertheless, there is no provision in the Act for the PIO to deny the information on the ground that the requested information is voluminous and supply of the same would disproportionately direct the resources of his office. Nor, there is any provision in the Act to limit number of applications or length of an application filed under Section 6 (1) of the Act. At the same time, as held by the Hon'ble High Court of Bombay at Nagpur, in State Information Commission v/s. Tushar Dhananjay Mandlekar, LPA No. 276/2012 in Writ Petition No. 3818/2010 (D), law does not compel the person to do what is impossible. Subscribing to the said ratio, the Commission opines that

the PIO should not be subjected to the implementation of any direction which is not possible to implement.

11. The Hon'ble High Court of Rajasthan, in writ Petition No. 10828/2012 in the matter as Hardev Arya V/s. Chief Manager (Public Information Officer) and Others has held in para 12:-

"12. It is true that Parliament has enacted the Right to Information Act, for transparency in administration, so also affairs of the state so as to strengthen the faith and trust of the people in the governance of the country. Therefore, the Act is a vital weapon in the hands of the citizens. At the same time, however, this may not be lost sight of that no law shall be allowed to be wielded unlawfully so as to put it to abuse or misuse. Every statute acts and operates within its scope and ambit, therefore, the duty rests with the Courts to discourage litigious obduracy."

12. In another matter The Hon'ble Supreme Court of India in Civil Appeal No. 6454 of 2011 (arising out of SLP (c) No. 7526/2009) in the case of Central Board of Secondary Education and Another V/s Aditya Bandopadhyaya and Ors. has held in para 37:-

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing

information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

13. In the light of the judgments mentioned above and in the background of the findings of the Commission in the present matter, it is held that the appellant has made indiscriminate requests for voluminous information, without specifying the larger public interest in seeking the said information. However, considering the aim and objects behind enacting the Right to Information Act and with respect to the spirit of the Act, the appellant cannot be deprived of the requested information which is not exempted from disclosure under Section 8 or 9 of the Act. Thus, the Commission concludes that the appellant has to be afforded an opportunity of identifying the information he has sought.
14. Hence, the present appeal is disposed with the following order:-
 - a) The appellant, if desires, may visit PIO's office with prior intimation and inspect and identify the information sought vide application dated 22/08/2022, within 10 days from the receipt of this order.
 - b) Present PIO of Village Panchayat Sancoale is directed to provide for inspection to the appellant as mentioned in para (a) above and furnish the identified information by the appellant, within 10 days from the date of inspection, after receiving requisite charges against the information from the appellant.
 - c) All other prayers are rejected.

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