

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 200/2022/SIC

Narayan D. Naik,
H.No. 278/1 (3),
Savorfond, Sancoale-Goa 403710.

-----Appellant

v/s

Shri. Raghuvir D. Bagkar,
Public Information Officer,
Village Panchayat of Sancoale,
P.O. Cortalim,
Mormugao-Goa 403710.

-----Respondent

Relevant dates emerging from appeal:

RTI application filed on	: 26/03/2022
PIO replied on	: 10/05/2022
First appeal filed on	: 11/05/2022
First Appellate Authority order passed on	: 13/06/2022
Second appeal received on	: 14/07/2022
Decided on	: 20/03/2023

ORDER

1. Aggrieved by non furnishing of the information, appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed second appeal against Respondent Shri. Raghuvir D. Bagkar, Public Information Officer (PIO), which came before the Commission on 14/07/2022.
2. It is the contention of the appellant that the information sought was not furnished by the PIO, hence, he filed appeal before the FAA. PIO was directed by the FAA to furnish the requested information within two weeks. The said direction was also not complied by the PIO, hence, he has appeared before the Commission by way of the second appeal.
3. Notice was issued to the concerned parties and the matter was taken up on board for hearing. Pursuant to notice, appellant appeared and pressed for the information and penal action against the PIO under Section 20 of the Act. Appellant filed submission dated 19/01/2023. Shri. Raghuvir D. Bagkar, PIO appeared alongwith Advocate Kapil D. Kerkar and filed reply on 08/12/2022 and 19/01/2023. However, the content of both the replies is exactly the same.

4. PIO stated that, the appellant has deliberately sought voluminous information in order to stall the day to day functioning of the Village Panchayat and that, the intention of the appellant is not to obtain information, but to harass the PIO and consequently divert the resources of the Panchayat in searching information not germane to the cause of the appellant or the public at large.
5. PIO further contended that, he had requested the appellant to inspect the files as requested by the appellant, however, the appellant did not inspect the files in order to identify and apply for the information, on the contrary chose to file present appeal only to harass the PIO. PIO further submitted that he denies that the appellant is entitled for multiple information in one application filed under the Act as is held in the case decided by the Chief Information Commission in Rajendra Singh v/s CBI in Appeal no. CIC/WB/A/2007/00967, and therefore, the present appeal is abuse of the process of law.
6. Appellant stated that, he was compelled to file the first appeal since the PIO did not furnish him any information. Later, as the PIO did not comply with the direction of the FAA, he was forced to prefer second appeal before the Commission. Appellant further submitted that after filing first appeal, PIO had informed him vide letter dated 10/05/2022, which was received on 11/05/2022 to visit office to inspect the documents. However, the said reply was issued after the stipulated period and he had already filed the first appeal. Yet, he visited PIO's office several times but the inspection was not provided by the PIO.
7. Appellant contended that the said conduct of the PIO to deny him the information is against the spirit and provisions of the Act. He is seeking the said information in larger public interest to expose illegality of the Secretary/ PIO and the Panchayat and wishes to file criminal complaint before the competent authority against the concerned person involved on the illegality.
8. Upon perusal of the records of the present matter, it is seen that the appellant vide application dated 26/03/2022 had sought from the PIO information on three points. He received no reply from the PIO within the stipulated period of 30 days, hence, filed appeal dated 11/05/2022 before the FAA. On the same day he received PIO's reply dated 10/05/2022 with a request to visit the office in the morning session in the next week, for inspection of documents pertaining to the requested information. The said letter was issued by the PIO after more than 45 days from the receipt of the application, whereas,

under Section 7 (1) of the Act, he was required to furnish the information within 30 days. As per Section 7 (2) of the Act, failure to give decision on the request for information within 30 days is considered as deemed refusal of the request.

9. The appellant aggrieved by the deemed denial had approached the FAA, hence he was not required to visit PIO's office for inspection, as the appeal was already filed before the FAA. Further, FAA after hearing both the sides vide order dated 13/06/2022 directed PIO to furnish the information within two weeks. PIO later, vide letter dated 23/06/2022 informed the appellant that the information asked is vague and time consuming and the said information is not maintained by his office. The Commission finds that vide the said letter, PIO not only denied the information to the appellant, he also refused to comply with the direction of the FAA.
10. The Commission, after perusal observes that, the PIO could have requested the appellant to visit his office for inspection, within the stipulated period. He had period of 30 days in his hand, he did not take any action during this period, nor has brought to the notice of the Commission what efforts he had taken during the stipulated period and after the disposal of the first appeal to furnish the information. Thus, the Commission finds that the PIO failed to honour Section 7 (1) of the Act.
11. Contention of the PIO that the appellant has deliberately sought vague information and that the intention of the appellant is to harass the PIO cannot be accepted since the Act does not restrict a citizen from filing number of applications under Sections 6 (1) of the Act, nor the applicant is restricted to ask limited number of questions in an application. Rather, the Section 5 (3) of the Act requires PIO to deal with request from applicant and render reasonable assistance to him and Section 7 (1) of the Act mandates PIO to respond to any request within the stipulated period of 30 days.
12. Similarly, PIO's question pertaining to entitlement of the appellant to seek multiple information in one application is not in tune with the spirit of the Act, since the provisions of the Act as well as rules framed under Section 27 of the Act by the Government of Goa nowhere restricts the applicant from seeking multiple information from any public authority in one application. If the information sought was really vague, PIO within 30 days could have requested the appellant to visit his office and inspect the relevant documents, such a response would have proved the bonafides of the PIO, at least to some extent. PIO wrote to the appellant requesting him to visit

and inspect the records, but much after the stipulated period. By that time the appellant had proceeded to file appeal against the PIO before the appellate authority.

13. During the proceeding of the present appeal, appellant vide submission dated 19/01/2023 requested the Commission to add the present PIO, Smt. Asha Mesta as respondent and to direct her to furnish the required information to the appellant. Appellant further requested the Commission to impose maximum penalty on Shri. Raghuvir D. Bagkar, the then PIO for failing in his duties and for concealing the information. Similarly, appellant requested for direction to compensate him for the incidental expenses incurred by him including fees of advocate and travel expenses.
14. With respect to the above mentioned requests of the appellant, the Commission issued notice to Smt. Asha Mesta , present PIO of Village Panchayat Sancoale, however, no amendment in the cause title is required to add her as another respondent for the reason that, being the present PIO, Smt. Asha Mesta is required to furnish the information sought by the appellant. With respect to the request for compensation, no details are provided by the appellant, hence the said request cannot be considered.
15. One of the main contention of the PIO is that the information sought is vague and not maintained by his office. If the requested information was really vague then the PIO had a remedy in the form of Section 5 (3) of the Act, under which he could have sought clarification from the appellant. Similarly, if the requested information is not maintained then he was required to inform the appellant accordingly within the stipulated period. However, PIO did not proceed as provided under the law and the said conduct of the PIO amounts to contravention of Section 7 (1) of the Act. PIO in the instant matter, neither furnished any information, nor rendered any help to the appellant and above all contends that the information sought is vague and not maintained by his office. Also, the same PIO vide reply dated 10/05/2022 had requested appellant to visit his office for inspection of documents in order to comply with the request of the appellant. The Commission finds that there is no consistency in the stands of the PIO, yet there is consistency in denying the information.
16. In a similar matter, Hon'ble High Court of Haryana in the case of Dalbir Singh V/s Chief Information Commissioner (C.W.P. 18694 of 2011) has observed:-

"There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the information officer might be well within his right to seek extension of time in supply of the said information, expenses for which are obviously to be borne by the petitioner."

17. In the context of Section 7 (9) of RTI Act 2005 Hon'ble High Court of Kerala in writ petition no. 6532 of 2006 in Treesa Irish Vs. The C.P.I.O. and others has observed and held:-

"In fact, there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately direct the resources of the public authority."

18. Above mentioned judgment by Hon'ble High Court of Punjab and Haryana highlights the responsibility of PIO in the case of voluminous information sought by the appellant, though does not absolve PIO of his duty of furnishing the information. Whereas, the other judgment by Hon'ble High Court of Kerala stresses on the mandate of the PIO to furnish the information.

19. Considering the ratio laid down by the Hon'ble High Courts in the above mentioned judgments and based on the findings of the Commission in the present matter it is concluded that the PIO has failed to respond to the application of the appellant within the stipulated period, similarly PIO has failed to comply with the direction of the FAA. Non adhering to the direction of officer who is senior in rank amounts to de-reliction of duty. Hence, the Commission concludes that the PIO is guilty of contravention of Section 7 (1) of the Act and the said conduct is liable for penal action.

20. The Honble High Court of Delhi in Writ Petition (C) 3845/2007; Mujibur Rehman V/s Central information Commission has held:-

"Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy."

21. Subscribing to the ratio laid down by the Hon'ble High Courts and the provision of the Act, the PIO is liable to be penalised as provided under section 20(1) and 20(2) of the Act. However, the Commission finds it appropriate to call for explanation from him before imposing such penalty.
22. In the light of above discussion and considering the facts of the matter, the appeal is disposed with the following order:-
- a) The PIO is directed to furnish the information sought by the appellant vide application dated 04/03/2022, within 30 days from the receipt of this order, free of cost.
 - b) Issue notice to Shri. Raghuvir D. Bagkar, PIO, Village Panchayat Sancoale and the PIO is further directed to showcause as to why penalty under section 20 (1) and/or 20 (2) of the Act should not be imposed against him.
 - c) In case Shri. Raghuvir D. Bagkar is transferred, the present PIO shall furnish the information as directed above and serve this order alongwith the notice to the then PIO Shri. Raghuvir D. Bagkar and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith the full name and present address of the then PIO.
 - d) The then PIO is hereby directed to remain present before the Commission on 02/05/2023 at 10.30 a.m alongwith with reply to showcause notice. The Registry is directed to initiate penalty proceeding.

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

