

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 256/2022/SIC

Shri. Nazario Savio D'Souza,
550/A/S-3, Cortez Apartments,
Ubo Dando, Santa Cruz,
Tiswadi-Goa, 403005

---Appellant

V/s

1. The Public Information Officer (PIO),
Block Development Officer, Tiswadi,
Junta House, 6th floor, Panaji-Goa
2. First Appellate Authority,
The Deputy Director (Admn),
Directorate of Panchayats, Panaji-Goa

...Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 23/11/2021
PIO replied on	: 13/12/2021
First appeal filed on	: 07/01/2022
First Appellate Authority order passed on	: 29/08/2022
Second appeal received on	: 23/09/2022
Decided on	: 13/03/2023

ORDER

1. The second appeal filed by the appellant under section 19 (3) of the Right to Information Act (hereinafter referred to as the 'Act'), against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), came before the Commission on 23/09/2021.
2. The brief facts of the appeal, as contended by the appellant are that, he had sought information on nine points, which PIO failed to furnish within the stipulated period of 30 days. Hence, he preferred appeal before the FAA, the said appeal was disposed by the FAA with direction to PIO to furnish the information within seven days. That, upon receiving the order of the FAA, appellant visited office of the PIO and FAA, yet no information was furnished. Being aggrieved, he appeared before the Commission by way of the second appeal.

3. Pursuant to the notice, appellant appeared in person and filed rejoinder dated 29/11/2022 and submission on 06/02/2023. PIO was represented by official representative under authority letter, filed reply on 19/01/2023 and compliance report on 06/02/2023. Shri. Shaikh Moshin appeared on behalf of the FAA and filed reply on 01/11/2022.
4. PIO stated that, in compliance with the FAA's order, the appellant was informed to collect the information, however, the appellant did not collect the information although he visited PIO's office on many occasion. That, appellant does not wish to collect the information and filed the present appeal with the intention of making wild allegations against the PIO.
5. FAA submitted that, he had served notice to the parties and after due hearing passed the detailed judgment vide order dated 29/08/2022 and the appeal was disposed in accordance with the law.
6. Appellant stated that, upon receipt of his application, PIO issued a reply to collect the information, however, did not furnish any information inspite of two visits to PIO's office. Later, FAA directed the PIO to furnish information within seven days, yet the PIO remained determined to withhold the information and did not furnish the same in seven days. Finally, though PIO furnished the information during the present proceeding, he has tried to confuse the authority by stating that the appellant refused to collect the information from PIO's office, hence he presses for penalty against the PIO for deliberate delay in furnishing the information.
7. Upon perusal it is seen that, the appellant vide application dated 23/11/2021 had sought from the PIO information on nine points. PIO vide reply dated 13/12/2021 requested the appellant to collect the information on any working day between 10.30 a.m. to 1.00 p.m. According to the appellant, he visited PIO's office twice and the staff of PIO's office was still attempting to locate the information. Meaning, the information was not furnished within the stipulated period, and appellant filed first appeal.
8. FAA while deciding the appeal directed the PIO to furnish the information free of cost within seven days from the receipt of the

order. Appellant received the said order on 12/09/2022 and visited PIO's office on 16/09/2022 and again on 19/09/2022, yet information was not handed over to him.

9. On the other hand, the Commission notes the contention of the PIO that inspite of his requests to collect the information, appellant refused to accept the same which was kept ready. PIO contended that appellant visited his office on many occasion, however did not collect the information.
10. Appellant claims that he visited PIO's office on many occasion, however, appellant has not provided any evidence on record to that effect. On the other side, PIO says that he had repeatedly sent request letters to the appellant to come and collect the information, however, PIO has not substantiated his say with documental evidence. Looking at the contentions of both the sides, it appears that the appellant and the PIO are up in arms against each other, making allegations and levelling charges on each other, for reasons best known to them. It appears that neither the PIO is interested in furnishing the information, nor the appellant is eager to collect the information. Nevertheless, the Commission cannot be the mute spectator in such situations.
11. This being the case, the Commission on 19/01/2023 directed the PIO to produce before the court, the entire information sought by the appellant. Accordingly, Shri. Ramanand Naik, authorized representative of the PIO, on 06/02/2023 produced the information before the Commission, the same was verified, received and acknowledged by the appellant. Even then, the appellant vide submission dated 06/02/2023 prayed for initiating penal action against the PIO for furnishing the information after much delay.
12. Here, the Commission finds that the information sought by the appellant was part of the record of the PIO and he could have furnished the same within the stipulated period, by charging the prescribed fee. Such an action by the PIO would have been in accordance with section 7(1) of the Act. To the utter surprise of the Commission, the information was not furnished. Later, during the proceeding of the first appeal and after the disposal of the first appeal, PIO could have furnished the information. As the Act provides it is the responsibility of the PIO to ensure that the information sought by the appellant under section 6(1) of the Act is

furnished expeditiously. The Commission observes that the PIO failed in his responsibility on three occasion, as mentioned earlier.

13. While the Commission makes above observations, it has to be noted that the appellant has not produced any evidence to prove that he visited PIO's office on one or more than one occasion, in order to collect the information. Therefore, the Commission is inclined to give benefit of doubt to the PIO for delay in furnishing the information, and is not in favour of imposing penalty against him, since the information is finally received by the appellant.
14. The Hon'ble High Court of Bombay at Goa, in Writ Petition No. 704 of 2012, in Public Authority, office of the Chief Engineer and others v/s. Shri. Yeshwant Tolio Sawant, has held in Para 6:-

"6. However, in the present case, the learned Chief Information Commissioner has himself noted that the delay was marginal and further the PIO cannot be blamed for the same. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."
15. Subscribing to the ratio laid down by the Hon'ble High Court as mentioned above and considering the findings of the Commission in the present matter, the Commission concludes that the information sought by the appellant vide application dated 23/11/2021 has been furnished by the PIO, though after marginal delay, hence the prayer for information becomes infructuous and there is no need to initiate penal action under section 20 of the Act, as prayed by the appellant.
16. Thus, the present appeal is disposed accordingly and the 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