

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website: www.gsic.goa.gov.in

Complaint No. 10/2023/SCIC

Adv. Vidhya Pilankar,
R/o. Near Poornima Hotel,
Ansabhat, Mapusa-Goa.Complainant

V/S

The Public Information Officer,
Mr. Prathamesh Shankardas,
Block Development Officer,
Mapusa-Goa, 403507.Opponent

Shri. Vishwas R. Satarkar State Chief Information Commissioner

Filed on: 18/04/2023

Decided on: 14/07/2023

ORDER

1. The Complainant, Adv. Vidhya Pilankar r/o. Near Poornima Hotel, Ansabhat, Mapusa-Goa vide her application dated 31/01/2023 filed under Section 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 Block Development Officer, Mapusa-Goa.
2. Since the said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Complainant filed first appeal before the Deputy Director (Admin), Directorate of Panchayat at Panaji-Goa, being the First Appellate Authority (FAA).
3. The FAA vide its order allowed the first appeal on 24/03/2023 and directed the PIO to furnish the information to the Complainant free of cost within the period of 10 days.
4. According to the Complainant, she visited the office of the PIO on innumerable occasions and requested the respondent to comply with the order of the FAA, however, all her attempts were in vain. Since the PIO failed and neglected to comply with the order of the

FAA, the Complainant landed before the Commission by this complaint proceeding under Section 18 of the Act, with the prayer to direct the PIO to comply with the order of the FAA and to impose fine/ penalty for causing the hardship to the Complainant.

5. Notices were issued to the parties, accordingly the Complainant appeared in person on 18/05/2023. In spite of valid service of notice, the PIO failed and neglected to appear before the Commission and file his reply in the matter. Therefore, I dispose the complaint proceeding on the basis of available records and upon hearing the submissions of the Complainant.
6. On perusal of records, it can be seen that, the Complainant has filed application under Section 6(1) of the Act on 31/01/2023 which was duly endorsed by the office of public authority on the same day. Section 7(1) of the Act requires the PIO to dispose the request of the information seeker within the stipulated period of 30 days. However, in this peculiar case the PIO failed and neglected to respond to the RTI application. He also failed to appear before the FAA. He also did not comply the order of the FAA dated 24/03/2023. Thus, the PIO at all levels has shown lack of concern to the process of RTI Act and thus failed to discharge his duty and responsibility as mandated under the Act.
7. The whole purpose of the Act, is to secure access to the information under the control of public authorities in order to promote transparency and accountability in the working of every public authority. Section 20 of the Act, clearly lays down that in case the information has not been supplied to the information seeker within stipulated time limit and without any reasonable cause, than the Commission shall impose the penalty / recommend disciplinary action against the PIO.

8. The High Court of Delhi in the case of **State Bank of India v/s Mohd. Shahjahan (W.P. (c) 9810/2009)** has held as under:-

"22. The very object and purpose of the RTI Act is to make the working of public authorities transparent and accountable. For the purpose of the RTI Act, all information held by a public authority is accessible except to the extent such information is expressly exempted from disclosure as provided in the RTI Act itself. In other words, unless the public authority is able to demonstrate why the information held by it should be exempt from disclosure, it should normally be disclosed. The burden, therefore, is entirely on the public authority to show why the information sought from it should not be disclosed."

9. In the present case also, the PIO failed to comply the order of the FAA dated 24/03/2023. The High Court of Gujarat in the case **Urmish M. Patel v/s State Of Gujarat & Ors. (Special C.A. No. 8376/2010)** has held that, penalty can be imposed if order of the FAA is not complied with by the PIO.

10. The High Court of Kerala in the case **Janilkumar v/s State Information Commission & Ors (LNIND 2012 Ker. 982)**, has held that failure to furnish information is penal under Section 20 of the Act.

11. The High Court of Bombay, Goa bench in the case **Johnson B. Fernandes v/s The Goa State Information Commission & Anr. (2012 (1) ALL MR 186)** has held that, law contemplates supply of information by the PIO to party who seeks 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.

12. Considering the ratio laid down by the various High Courts, the Commission has come to the conclusion that, it is a fit case for imposing penalty under Section 20 of the Act against the PIO. 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. I therefore pass the following:-

ORDER

- The Complaint is allowed.
- The PIO, Shri. Prathamesh Shankardas, the BDO, Mapusa-Goa is hereby directed to comply with the order of the FAA dated 24/03/2023 within a period of **FIFTEEN DAYS** from the date of receipt of the order.
- The PIO, Shri. Prathamesh Shankardas, the Block Development Officer, Mapusa-Goa is hereby directed to show cause as to why penalty should not be imposed on him in terms of Section 20(1) of the Act and / or recommend to initiate disciplinary proceeding against him in terms of Section 20(2) of the Act.
- The reply to the showcause notice is to be filed personally on **29/08/2023 at 10:30 am.**
- The complaint is disposed accordingly.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner