

GOA STATE INFORMATION COMMISSION

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

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 22/2022/SIC

Shri. Jawaharlal T. Shetye,
H. No. 35/A Ward No. 11,
Khorlim, Mapusa-Goa 403507.

-----Complainant

v/s

The Public Information Officer,
Mapusa Municipal Council,
Mapusa-Goa 403507.

-----Opponent

Relevant dates emerging from appeal:

| | |
|---|--------------|
| RTI application filed on | : 29/09/2021 |
| PIO replied on | : Nil |
| First appeal filed on | : 08/11/2021 |
| First Appellate Authority order passed on | : 22/12/2021 |
| Second appeal received on | : 01/02/2022 |
| Second appeal disposed on | : 29/04/2022 |
| Complaint received on | : 11/07/2022 |
| Decided on | : 31/07/2023 |

ORDER

1. Aggrieved by non compliance of the order dated 29/04/2022 passed by the Commission, in Appeal No. 32/2022/SIC, complainant under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed this complaint against the Opponent, Public Information Officer (PIO), which came before the Commission on 11/07/2022.
2. The brief facts of the present matter, as contended by the complainant are that, he was not furnished information by the PIO even after the direction by the FAA, hence, he filed second appeal before the Commission. The Commission after hearing both the sides, disposed the appeal with direction to the PIO to furnish the requested information within 30 days. It is the contention of the complainant that he received no information, which amounts to non compliance of the order passed by the Commission, thus, he has appeared before the Commission, by way of complaint under Section 18 (1) of the Act.
3. The concerned parties were notified, pursuant to which complainant appeared praying for penal action against the PIO and on 24/01/2023 filed a submission in the entry registry. Opponents

namely Shri. Prashant Narvekar, Shri. Santosh Humraskar and Shri. Abhay Rane, former PIOs and Shri. Rajendra Bagkar, present PIO appeared. Opponent PIOs undertook to furnish the information and file reply/ compliance report, however, no such reply or compliance report was filed before the Commission.

4. Complainant stated that, the Commission while disposing the second appeal had directed PIO to furnish the information, yet the direction was not complied. PIO neither furnished the information within the stipulated period of 30 days, nor after the direction of the First Appellate Authority and then has defied the order of the Commission by not complying with the same. Complainant further stated that, Shri. Vyankatesh Sawant was the PIO on the date of the application and the application was marked to him. Shri. Prashant Narvekar was the PIO on the date of the order passed by the Commission and he had undertaken to furnish the information. However, both the PIOs have failed to deliver, hence he prays for penal action to be initiated against Shri. Vyankatesh Sawant and Shri. Prashant Narvekar.
5. Upon perusal of the records of this matter it is seen that, pursuant to the notice, former PIOs and present PIO appeared during the present proceeding, yet, took no action. Shri. Vyankatesh Sawant, the then PIO chose not to attend the complaint proceeding, however had appeared during the appeal proceeding. Further, it is noted that none of the PIOs, whether the then PIO or the former PIO or the present PIO made any efforts towards furnishing the information. The Commission while disposing the appeal vide order dated 29/04/2022 had observed that the information sought is required to be available in the records of the authority and the PIO is mandated to furnish the same to the appellant.
6. In the first instance, Shri. Vyankatesh Sawant, the then PIO was responsible for responding to the application, thus, his failure amounts to contravention of Section 7 (1) of the Act. Next, Shri. Prashant Narvekar was holding charge as PIO and he was directed by the Commission to furnish the information within 30 days. Shri. Narvekar had undertaken to comply, yet did not comply. The said conduct under Section 18 (1) of the Act makes Shri. Prashant Narvekar liable for action.
7. The Honourable High Court of Delhi in Writ Petition (c) 3845/2007; Mujibur Rehman V/s Central Information Commission, while mentioning the order of Commission of imposing penalty on PIO 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 limit 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."

8. In the background of the facts and the findings as mentioned above and subscribing to the ratio laid down by Hon'ble High Court of Delhi, the Commission holds Shri. Vyankatesh Sawant, the then PIO guilty of not furnishing the information within the stipulated period of 30 days and Shri. Prashant Narvekar, the former PIO of not adhering to the direction of the Commission and indulging in filibustering tactics. Conduct of both these officers is against the objectives and spirit of the Act.
9. With these observations the Commission concludes that PIOs with such non-cooperative nature deserves to be punished under Section 20 (1) and /or 20 (2) of the Act. However, before imposing such penalty an opportunity needs to be given to these PIOs to explain their conduct.
10. In the light of above discussion, the present complaint is disposed with the following order:-
 - a) The complaint is allowed.
 - b) Issue show cause notice to Shri. Vyankatesh Sawant, the then PIO, Mapusa Municipal Council and Shri. Prashant Narvekar, the former PIO, Mapusa Municipal Council and the PIOs are further directed to show cause as to why penalty as provided under Section 20 (1) and /or 20 (2) of the Act should not be imposed against them.
 - c) The present PIO shall serve the show cause notice along with the order to the above PIOs and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith present address of the above PIOs.
 - d) Shri. Vyankatesh Sawant and Shri. Prashant Narvekar are hereby directed to remain present before the Commission on **28/08/2023 at 10.30 a.m.** alongwith reply to the show cause notice.

e) The Registry is directed to initiate penalty proceeding against Shri. Vyankatesh Sawant, the then PIO and Shri. Prashant Narvekar, former PIO, Mapusa Municipal Council.

Proceeding of the present complaint 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.