

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Complaint No. 26/2022/SIC**

Prashant P. Naik,  
Dina Hsg. Complex, FF4,  
B. B. Borkar Road,  
Opp. Akashvani Colony,  
Alto- Porvorim, Bardez-Goa.  
403521.

-----Complainant

**v/s**

The Public Information Officer/ V. P. Secretary,  
Village Panchayat Siolim-Marna,  
Siolim-Bardez-Goa.

-----Opponents

**Relevant dates emerging from the proceeding:**

RTI application filed on	: 31/07/2021
PIO replied on	: 10/08/2021
First appeal filed on	: 16/08/2021
First Appellate authority order passed on	: 03/09/2021
Second Appeal filed on	: 05/10/2021
Second Appeal decided on	: 24/06/2022
Complaint received on	: 05/08/2022
Decided on	: 20/02/2023

**ORDER**

1. Aggrieved by non compliance of the order dated 24/06/2022 of the Commission, by opponent Public Information Officer (PIO), the complainant under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed the present complaint, which came before the Commission on 05/08/2022.
2. The brief facts of the instant complaint are that the complainant vide application dated 31/07/2021 had sought certain information from the PIO. Upon not receiving the said information within the stipulated period, he filed appeal before the First Appellate Authority (FAA). Being aggrieved by noncompliance of the order of FAA, he filed second appeal before the Commission. The said appeal was decided vide order dated 24/06/2022 with direction to the PIO to furnish the information within 20 days from the receipt of the order, free of cost.
3. It is the contention of the complainant that, the PIO has not furnished the information inspite of the order passed by the Commission. The complainant further prayed for invoking Section 20 (1) and 20 (2) of the Act for penal action against PIO.

4. Notice was issued to the concerned parties and the matter was taken up for hearing. Complainant appeared and filed submission on 30/11/2022. Advocate Sarvesh G. Kalangutkar, Advocate Anjali A. Chodankar, Advocate Chetan G. Sangelkar appeared on behalf of the PIO, filed reply dated 07/12/2022.
5. Complainant stated that, the Commission vide order dated 24/06/2022 passed while disposing Appeal No. 244/2021/SIC had directed PIO to furnish the information sought vide application dated 31/07/2021, within 20 days from the receipt of the order, free of cost and PIO has failed to comply with the said direction. Complainant submitted that, the PIO had not complied with the direction of the FAA and then have evaded the responsibility of furnishing complete information as directed by the Commission. The said action of the PIO makes him liable for penal and disciplinary action under Section 20 of the Act. Complainant further stated that, vide letter dated 27/07/2022 and 29/11/2022 he had notified the PIO about non receipt of the complete information, inspite of these efforts PIO refused the compliance.
6. PIO stated that, he has already furnished the available information and he can furnish only that information which is available in the records of Village Panchayat Siolim-Marna. That, the PIO had afforded inspection of the available records, and the complainant had liberty to apply for information which he desired to obtain, however he did not apply for any additional documents after the inspection. Hence, PIO cannot be blamed for contravention of Section 7 (1) of the Act. PIO further contended that, the Commission had already rejected the contentions of the complainant, while disposing Appeal No. 244/2021/SIC vide order dated 24/06/2022, therefore, the complainant deserves no relief.
7. Upon perusal of the records it is seen that, the complainant in the present matter, vide application dated 31/07/2021 had sought information pertaining to action taken by the authority against alleged illegal/ unauthorised construction in his property. It appears from the reply dated 10/08/2021 issued by the PIO that the inspection notice was issued to the concerned party, site inspection was conducted, show cause was issued and the same information was furnished by the PIO. The Commission had held that if no further action was taken by the authority then no more information is supposed to be available in the records of the PIO. However, it is the contention of the complainant that the PIO did not provide some documents for inspection during his visit.

8. It appears from the present proceeding and the records of Appeal No. 244/2021/SIC, decided on 24/06/2022 that the complainant is aggrieved by the action of the PIO of not furnishing complete information. In such a case, complainant during the proceeding of the present complaint was required to produce before the Commission whatever information he received from the PIO and substantiate his contention with some evidence, which he has not done. Complainant has failed to establish that the information furnished by the PIO is incomplete. Similarly, if he finds that the action taken by the authority is insufficient then he was required to raise the said issue before an appropriate authority. Though the Commission agrees with the request of the complainant that the authority has to take action against illegal/ unauthorised construction, if any, in its jurisdiction, the Commission has no jurisdiction to direct the authority to take appropriate action against illegal/ unauthorised construction.
9. Thus, the Commission cannot blindly subscribe to the contention of the complainant that the complete information is not furnished. Similarly, PIO has stated that he has furnished the complete information. In such a case, being the complainant, the onus was on him to come out with sufficient evidence to substantiate his contentions. The Commission is of the opinion that the complainant has failed to substantiate his contentions, and his grievance is not with respect to the information, but with respect to the action by the authority being not taken on his complaint.
10. Hon'ble High Court of Bombay at Goa Bench, in A. A. Parulekar v/s Goa State Information Commission has held that PIO can be penalised only if it is established that the failure to furnish the information was intentional or deliberate. Similarly, the Hon'ble High Court in Public Authority and others v/s. Shri. Yeshwant Tolio Sawant, has held that imposition of penalty is the blot upon the career of an officer and marginal delay in furnishing the information is required to be accepted.
11. Subscribing to the ratio laid down in above mentioned judgment and the findings in the instant matter, the Commission concludes that the available information has been furnished and there is no sufficient ground to punish the PIO, as prayed by the complainant. Hence, no relief can be granted to the complainant.

12. In the light of above discussion, the present complaint is disposed as dismissed 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