

GOA STATE INFORMATION COMMISSION

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Appeal No. 273/2023/SCIC

Shri. Linus D'Lima,
8-2-13, Bhawani Nagar,
Marol Maroshi Road,
Andheri East,
Mumbai, 400059

.....Appellant

V/s

1. The Public Information Officer,
Secretary/Ms. Navanya Goltekar,
Village Panchayat Aldona,
Aldona, Bardez-Goa, 403508

2. First Appellate Authority,
Block Development Officer/
Prathamesh Shankardas,
Govt. Office Complex, 2nd floor,
Morod, Mapusa, Bardez-Goa, 403507

.....Respondents

Shri. Vishwas Satarkar, State Chief Information Commissioner

Filed on: 08/08/2023

Decided on: 06/02/2024

ORDER

1. The Appellant, Mr. Linus D'Lima r/o. 8 – 2 - 13, Bhawani Nagar, Marol Maroshi Road, Andheri East, Mumbai 400059, vide his application filed through Postal service dated 11/11/2022 under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act), sought following information from the Public Information Officer (PIO), Village Panchayat Aldona, Bardez-Goa:-

"Information regarding refer to SITE INSPECTION on 10/11/2022 @ 3:30 p.m. on my ancestral property under

survey No. 279/11 with house No. 1277/1. Your Notice Ref. No. VPA/1110/22-23 dated 16/08/2022 FURNISH CERTIFIED COPIES:

(a) 'SITE INSPECTION REPORT' On MY ANCESTRAL PROPERTY.

(b) WRITTEN REPLIES RECEIVED FROM MRS. JOAQUINA CONCEICAO FERNANDES.

(c) FILE NOTINGS OF MY LETTER Ref. No. Ref/VPA/JCF/2022/357 dated 09/11/2022.

2. The said application was not responded by the PIO within stipulated period of 30 days, therefore, the Appellant filed first appeal before the Block Development Officer, Government Complex, Morod, Mapusa Goa on 12/05/2023.
3. Since the FAA failed and neglected to hear and dispose the first appeal within stipulated time, the Appellant through the postal service preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayers to direct the PIO to furnish the information and also to penalise her for denying the information.
4. Notices were issued to the parties, pursuant to which, Adv. Rui Ferreira put his appearance on behalf of the Appellant on 07/11/2023, Adv. M. Valadares appeared on behalf of the PIO on 03/10/2023, who undertook to file his wakalatnama and sought time to file his reply in the matter. The FAA, duly served, opted not to appear and put his say in the matter.

5. In the course of hearing on 16/01/2024, Adv. R. Ferreira appeared and submitted that, pending the second appeal, he received purported information from the PIO through registered post and he is satisfied with the information, however, he stressed upon imposing penalty on the PIO for causing delay in furnishing the information.
6. The whole purpose of the Act, is to bring about as much transparency as possible in relation to activities and affairs of public authorities. Section 20 of the Act, clearly lays down that in case the information has not been supplied to the information seeker within the time limit, without any reasonable cause, then the Commission shall impose penalty.
7. The Hon'ble 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."

8. In the present case, despite valid notice served upon the PIO on two occasions, she failed and neglected to appear before the Commission viz 03/10/2023, 07/11/2023, 01/12/2023, 16/01/2024 and 06/02/2024. The record also shows that the PIO did not reply the RTI application, thus showing complete disregard for the process of the RTI Act at all levels.
9. The Hon'ble High Court of Bombay, Goa Bench in the case **Johnson B. Fernandes V/s the Goa State Information Commission and Another (2012 (1) ALL MR 186)** has held that, law contemplates supply of information by the PIO to party who seek 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.
10. The delay in furnishing the information is not marginal but a gross delay, moreover the PIO miserably failed to show any reasonable cause for causing the delay. The record indicates that the Appellant is a senior citizen and due to the inaction of the PIO, he had been forced to run from pillar to post to obtain the information thus wasting his time, money and energy to prefer the second appeal.
11. Considering the above facts and circumstances, I have no hesitation in holding that the PIO has deliberately delayed in furnishing the information and therefore, it is a fit case for imposing penalty under Section 20 of the Act for dereliction of her duty. However, before any penalty is imposed, the principle of natural justice demands that an explanation be called for

from the PIO, as to why she failed to discharge the duty cast upon her as per the RTI Act. I, therefore pass the following:-

ORDER

- The appeal is allowed.
- The PIO, Ms. Navanya Goltekar, Secretary of Village Panchayat Aldona, Bardez-Goa is hereby directed to show cause as to why penalty should not be imposed on her in terms of section 20(1) of the Act.
- The reply to the Show Cause Notice is to be filed on 22/03/2024 at 10.30 a.m.
- The appeal is disposed accordingly.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner