GOA STATE INFORMATION COMMISSION

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Appeal No. 350/2023/SIC

Shri Sankalp Karpe ,
"Pitashree", H. No. 247/A, 1st Floor,
Ganeshpuri, Housing Board Colony,
Mapusa, Bardez-Goa 403507. .....Appellant

V/s

1.The Public Information Officer/Shri Viraj Kinalkar,
Village Panchayat Secretary,
Office of the Village Panchayat of Camurlim,
Camurlim, Bardez-Goa.

2.The First Appellate Authority/Shri Prathamesh Shankardas,
The Block Development Officer Bardez,
Mapusa, Bardez-Goa. .....Respondents

Shri. Atmaram R. Barve State Information Commissioner

Filed on: 28/09/2023
Decided on: 27/11/2024

ORDER

1. The Appellant approached the Public Information Officer (PIO) of Village Panchayat Camurlim with an application under the Right to Information Act dated 23/03/2023.

2. Thereafter the Public Information Officer (PIO) of Village Panchayat Camurlem issued a communication dated 20/04/2023, addressed to the Appellant to collect the information sought by him from his office on any working day of the Village Panchayat by paying requisite fees.

3. The said letter was sent by the PIO vide Registered A. D. and was eventually received by the Appellant on 25/04/2023.

4. Thereafter the Appellant preferred to file the first appeal before the Block Development Officer (BDO) of Bardez with the contention that, the aforesaid communication to collect the information was dispatched beyond the time frame of 30 days as envisaged under the Right to Information Act (for short, the 'Act') and that the said PIO also charged a fee of Rs. 82 from the Appellant inspite of having provided the information after 30 days from the original application.

5. The appellant also prayed before the First Appellate Authority (FAA) to direct the PIO to furnish comprehensive and correct information and also seeking directions against the PIO to refund the fees charged.

6. The First Appellate Authority (FAA) upon extensively hearing the first appeal disposed the same and issued directions to the PIO to provide physical inspection of the concern documents within 10 days of passing of the order. The said order was passed on 05/07/2023.

7. Thereafter the appellant preferred a second appeal dated 28/09/2023 before this Commission on the grounds that complete and correct information was

not provided by the PIO within the stipulated time period and to initiate disciplinary proceeding against the PIO for having deliberately ignored furnishing the requested information to the Appellant.

8. The Respondent PIO filed his reply to the Appeal Memo dated 02/01/2024 through Adv. S. Kalangutkar who had also filed his wakalatnama accordingly.

9. Prior to filing of the reply by the Respondent the Appellant vide his communication dated 21/11/2023 objected to appointment of any government empanelled Advocate. By the PIO contrary to the circular No. DI/INF/RTI-CIR/2011/2461 dated 20/07/2011 issued by the Director of Information and Publicity directing the PIO's that they can engage Advocate to represent them before the Appellate Authority only through personal expenses and that Government Advocate/Pleader can be engage only in genuine cases accompanied by a self contain note justifying the allotment of government pleader.

10. In the hearing dated 21/02/2024, the State information Commissioner had sought clarification from the Respondent in this matter. Thereafter the former SIC demitted office and the matter was taken up on 01/10/2024.

11. Thereafter the matter was extensively argued by both the parties today, wherein, the Appellant reiterated his contentions and pressed for penal action against the PIO in terms of the issues raised in the Appeal.

12. The Respondent Advocate submitted before this Commission that the PIO has engaged him in his personal capacity, and that no fees shall be charged from the Government to that extent.

13. In so far as the core issue of the second appeal is concerned, the appellant doesnot deny that the information was given to him.

14. Advocate for Respondent also highlighted that the Appellant did not conduct inspection of the documents as directed by the First Appellate Authority (FAA).

15. Considering the facts of this matter elaborated in the foregoing paras. This Commission is of the considered opinion that primafacia there is no case of any delay in providing the information with any malafide intend.

16. Although the fact remains that the said PIO eventually provided the information to the appellant beyond the stipulated time period of 30 days, and as such ought not to have charged any fees towards issuance of the said information.

17. There was considerable delay in deciding this matter due to the fact that the Commissioners had demited office from the monthof march and new appointment was made only in the month of September, 2024 and hence it would not be appropriate to initiate any penal proceedings against the PIO. However, this decision shall not be construed as a precedent for such acts in the future.

18. The PIO of V. P. Camurlim is hereby directed to refund the fees collected from the appellant in the present matter, forthwith.

19. Further the First Appellate Authority (FAA) Respondent No. 2 be dropped from the first title accordingly.

20. Hence, 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/-

(Atmaram R. Barve)
State Information Commissioner