GOA STATE INFORMATION COMMISSION
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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 13/2023/SIC

Shri. Ramesh S. Kerkar,
R/o. Saligao, Mudda waddo,
Bardez-Goa 403511. ------Complainant

v/s

1. The First Appellate Authority,
PWD Office, Altinho, Panaji-Goa.

2. The Public Information Officer,
Executive Engineer,
PWD XVII (PHE-N) PWD,
Alto Porvorim-Goa.

3. The Village Panchayat Secretary,
Village Panchayat of Saligao,
Saligao-Goa. ------Opponents

Relevant dates emerging from appeal:

RTI application filed on	: 23/01/2023
Application transferred on	: 06/02/2023
PIO replied on	: 27/02/2023
First appeal filed on	: 21/03/2023
First Appellate Authority order passed on	: 27/04/2023
Complaint received on	: 24/05/2023
Decided on	: 12/02/2024

O R D E R

1. The complainant under Section 18 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), has filed the present complaint against Opponent No. 1, First Appellate Authority (FAA), PWD office, Altinho, Panaji, Opponent No. 2, Public Information Officer (PIO), Executive Engineer, PWD, Alto, Porvorim and Opponent No. 3, Public Information Officer (PIO), Secretary, Village Panchayat of Saligao, which came before the Commission on 24/05/2023.

2. Notice was issued to the concerned parties, pursuant to which, complainant appeared in person initially and later, Ms. Natasha R. Kerkar, Complainant's daughter appeared on his behalf. Submissions were filed by complainant on 22/08/2023 and 09/01/2024. Shri. Ruday Neurekar, Surveyor appeared for the FAA under authority and filed reply dated 20/07/2023. Shri. Dattaram Raikar, APIO appeared on behalf of Opponent No. 1, PIO, filed reply on 20/07/2023 and

additional reply on 30/10/2023. Shri. Ashok Naik, Opponent No. 3, PIO appeared in person and on 30/01/2024 filed reply.

3. It is the contention of the complainant that, the information sought by him was not furnished fully, only part information was provided alongwith some misleading and unwanted information. Further, Opponent No. 2 has not provided inspection of relevant records even after the direction to do so, by Opponent No. 1, FAA. Complainant further submitted that, his application was transferred to Opponent No. 3, PIO, with respect to information on point (xvi) however, he received no reply from Opponent No. 3, PIO.

4. Opponent No. 1, FAA submitted that, the first appeal filed before him was heard and decided, as provided under the Act, within the mandatory period.

5. Opponent No. 2, PIO stated that, information sought by the complainant was furnished vide letter dated 27/02/2023. Due to oversight, copies were not certified, however after FAA's order, PIO has provided certified copies and the receipt of the same has been acknowledged by the complainant. That, the PIO has made maximum efforts to make available all the information.

6. PIO further stated that, in compliance with the direction issued by the FAA, he had requested the opponent to visit PIO's office for inspection and identifying the documents he desired. Letters dated 10/04/2023 (before FAA's order), 25/04/2023 and 11/05/2023 (after FAA's order) were issued by PIO via Registered Post, same were received by the Opponent, however, never appeared at scheduled time and left office without inspection of the files. Further, with respect to point (i) of the application, upon FAA's direction, he has filed missing complaint before Police Inspector, Porvorim Police Station.

7. Opponent No. 3, PIO, Secretary of Village Panchayat Saligao stated that, NOCs issued by the Panchayat were handed over to the Public Works Department, thus, the office does not have any information with respect to point (xvi).

8. Upon perusal of the record of the present matter, it is seen that, the complainant had requested Opponent No. 2, PIO for information on Point (i) to (xvi). PIO, vide letter dated 06/02/2023, transferred the application with respect to point (XVI) to Village Panchayat Saligao and vide reply dated 27/02/2023, furnished the information as

available in his office records. Opponent No. 3, PIO, Village Panchayat Saligao, vide letter dated 08/03/2023, informed Opponent No. 2, PIO that the information on point (xvi) does not pertain to his office.

9. Complainant, not satisfied with the information received from Opponent No. 2, PIO, preferred first appeal. The FAA, after hearing both the sides, directed PIO to file police complaint / FIR with respect to non-traceability of information on point (i). Further, FAA directed the PIO to provide certified copies of information on point (ii) to (xii) and (xvi) and inspection of relevant files with respect to point (xiii), (xiv) and (xv).

10. The Commission notes that the PIO in compliance with the direction of FAA with respect to point (i), vide letter dated 08/05/2023 requested Police Inspector of Porvorim Police Station to register missing report regarding missing of the relevant file. Further, as directed by the FAA, the PIO on two occasions provided opportunity to the complainant to inspect relevant records, however, as brought on record by the PIO, the complainant failed to undertake the inspection. Hence, the complainant deserves no relief on this front.

11. With respect to the FAA's direction on point (ii) to (xii) and (xvi) the Commission observes that the PIO has not taken any action and has relied on his reply dated 27/02/2023. FAA, vide order dated 27/04/2023 had directed the PIO to provide information as regards to point (ii) to (xii) and (xvi). Opponent No. 2, PIO has not produced any documental evidence to substantiate his contention of complying with the said order of the FAA, with respect to point (ii) to (xii) and (xvi). Hence, direction needs to be issued to Opponent no. 2, PIO to comply with the said directions. Whatever order passed by the FAA, the PIO is mandated to comply with the same.

12. The Hon'ble Gujarat High Court in Special Civil Application No. 8376 of 2010 in case of Urmish M. Patel v/s. State of Gujarat & 5 has held that Penalty can be imposed if First Appellant Authority order is not complied.

"8. Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to

have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty."

13. Subscribing to the ratio laid down by the Hon'ble High Court of Gujarat, the Commission holds that the Opponent No. 2, PIO is required to implement the order dated 27/04/2023, passed by the FAA. However, considering the fact that the said PIO had furnished part information and provided for inspection, no penal action under Section 20 (1) and 20 (2) of the Act needs to be initiated against the PIO.

14. In the light of above discussion, the present appeal is disposed with the following order:-

    a) Opponent No. 2, PIO, Executive Engineer, PWD XVII (PHE-N) PWD, Alto, Porvorim Goa is directed to comply with the order dated 27/04/2023, passed by the FAA, with respect to point (ii) to (xii) and (xvi) of application dated 23/01/2023.

    b) All other prayers are rejected.

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.