

DESPATCHED
On... 27/06/2019...
19/6/20



STATE INFORMATION COMMISSION, KERALA
PUNNEN ROAD, THIRUVANANTHAPURAM

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Proceedings of the Appeal Petition No.1605(5)/19/SIC

File No. 12840/SIC-G7/2019

PRESENT

Smt. Srilatha P.R, State Information Commissioner

Smt. Miriam. S. Pathrose,
1-B Chakolas marina,
Thevara Ferry,
Cochin – 682 013.

}
Appellant

The State Public Information Officer,
Town Planning Section
Cochin Corporation.

}
Respondents

The Appellate Authority &
Executive Engineer,
Central Zone, Cochin Corporation.

ORDER

Date of application U/S 6(10)	25.02.2019
Date of reply furnished	22.03.2019
Date of Ist Appeal	05.04.2019
Date of decision on the Ist Appeal	29.04.2019
Date of filling 2 nd appeal in the Commission	15.07.2019
Date of Hearing & Venue	18.11.2019, Collectorate Conference Hall, Ernakulam.
Presence in the Hearing	
SPIO	Present
Appellant	Present

1. The Appeal Petitioner Smt. Miriam. S. Pathrose had submitted an application dated 25.02.2019 before the Ist Respondent - Assistant Executive Engineer of Cochin Municipal corporation seeking certain information on various aspects connected with the violations in Chakolas Marina Apartments Building and this was received by him on 26.02.2019. The Ist Respondent as per his letter dated 22.03.2019 had provided a reply to the appellant it was stated that according to Rule 99 of KMBR 24(11) every interior open space shall be open to the sky. Aggrieved by the action of the Ist Respondent the appellant had filed a first appeal dated 05.04.2019 before the second Respondent Executive Engineer- II Cochin Municipal Corporation and this was received by him on 29.04.2019. The First Appellate Authority had disposed the first appeal as per his order dated 14.05.2019. The 2nd Respondent had directed the Ist Respondent to re-examine the matter and provide a clear revised reply to the applicant within fifteen days of receipt of the order, extending copy to him. The Ist Respondent had not complied with the order of the IInd Respondent till date. Highly aggrieved by the inaction of the Ist Respondent, the appellant had filed a Second Appeal dated 15.07.2019 before the Commission.
2. At this juncture, it also needs to be considered that the Commission in a previous appeal dated 20.06.2017 (Vide AP No. 1243(5)2017/SIC in File No. 8576/SIC-G7/17, vide order dated 13.03.2018) filed by the same Appellant had already passed orders, the relevant extract of the operative portion of the same is reproduced below.
3. *“7..... Nevertheless, the Respondent should furnish a clear reply regarding the circumstances under which the original plan was found missing from the file and how the completion plan now available in the file got incorporated in the file. It should also be stated as to who all are expected to sign the completion plan and whether the concerned authorities had affixed their signature in the completion file now available in the file. Similarly reply furnished to the item No. 4 in the application dated 06.01.2017 does not appear to be full & complete. It Should be answered clearly as to whether the construction carried out in the ventilation shaft is in accordance with R 24 of Kerala Municipality and Building Rules (KMBR) 1999 and fire safety norms. Reply to the above items*

as stated above should be furnished to the Appellant within 20 days of receipt of this order". The above orders were not complied by the Ist Respondent even if he is duty bound to comply with the same in letter and spirit and the appellant had again approached this Commission and the concerned proceedings are dealt with in a separate file.

4. Anyhow the subject matter of the both the applications and appeals more or less remain the same and centered on the legality and correctness of the construction of enclosure in the ventilation shaft of the Chakolas Marina Apartments Building where the appellant happens to be the occupant and resident and allied matters. The Appellant was made to run from pillar to post knocking all doors for the redressal of her grievances in spite of which they remain unresolved even after filing of various representations, RTI applications and interference of this commission and there is no progress in the situation. This issue also has human rights dimension and the physical hardships and mental agony of the Appellant amounts to human rights violation.
5. The commission Conducted its hearing in which the appellant as well as the Ist Respondent were present at the Conference hall of Collectorate Ernakulam on 18.11.2019. The appellant reiterated the contents in the RTI application and stated that no reply was provided by the Ist Respondent till date on all the points despite of the orders of the First Appellate Authority. He further alleged that the information/ certified copy of documents sought by the Appellant was deliberately and malafidely denied by the Ist Respondent with out any valid justification. It was inter-alia prayed to the Commission to direct the Respondent to supply the desired information as sought in the RTI application and to impose penalty upon the Ist Respondent as also to grant compensation towards harassment caused to her due to respondents and to pass orders instituting an inquiry in to the violations of the RTI Act by the Respondent Public Authority, etc. The Ist Respondent has no proper explanation for the disobeyal of the orders of the first appellate authority. The Commission observes that there is complete negligence and laxity on the part of the Ist Respondent in dealing with the RTI applications. It is abundantly clear that

such matters are being ignored and set aside without application of mind which reflects disrespect towards the RTI act 2005 itself. The Commission expresses its extreme displeasure on the casual and callous approach adopted by the Ist Respondent in responding to the RTI application. It is felt that the conduct of the Ist Respondent was against the spirit of the RTI Act 2005 which was enacted to ensure greater transparency and effective access to the information. The Commission finds that the Ist Respondent had malafidely denied the required information to the Appellant without any reasonable cause and thus obstructed the flow of information and thus failed to perform his mandatory responsibilities enumerated in section 7(1) of the RTI Act 2005.

6. The Commission after adverting to the facts and circumstances of the case hearing both the parties and perusal of records hereby passes the following orders
 - a. Provisionally decides to impose penalty on the Ist Respondent U/s 20(1) of the RTI act 2005 since it is found that he is prima facie guilty for having mala fidely denied the required information/ certified copy of documents to the Appellant till date. He is required to show cause within 15 days of receipt of this order as to why he should not be punished and any failure to submit the required explanation within the specified time limit will lead to confirmation of this provisional order without any further notice, under the presumption that he has nothing to offer in this regard. He is also directed to specifically state whether the desire to be heard in person before deciding the matter. His written explanation along with the supportive materials should reach the Commission within the said 15 days.
 - b. Directs the Ist Respondent to re –examine the matter and provide a clear, cogent and reasoned point –wise response to the Appellant as per the provisions of the RTI Act 2005, within a period of 10 days from the date of receipt of this order and report compliance to this Commission.
7. However it is also observed that RTI Act is not the proper law for redressal of grievances and this Commission has certain limitations and there are other

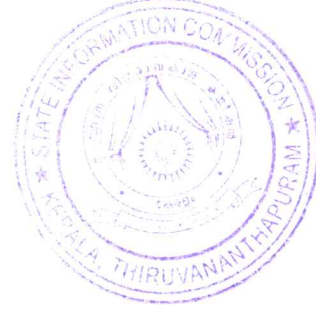
appropriate forums for resolving such matters and the Appellant is advised to approach the police authorities or Vigilance and Anti Corruption Bureau with a complaint in this regard.

8. The Commission disposes of this appeal petition accordingly on the 19th day of June 2020.

Sd/-

SRILATHA. P.R

STATE INFORMATION COMMISSIONER



Authenticated copy

Commission Secretary

