

STATE INFORMATION COMMISSION AT PANAJI

Seventh Floor, Kamat Towers, Patto, Panaji –Goa.

Penalty No.18/2016

in

Complaint No.03/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa.

... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa.

... Opponent

Penalty No.19/2016

in

Complaint No.04/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa.

... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa.

... Opponent

Penalty No.20/2016

in

Complaint No.05/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa.

... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa.

... Opponent

Penalty No.21/2016
in
Complaint No.06/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa. ... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa. ... Opponent

Penalty No.22/2016
in
Complaint No.07/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa. ... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa. ... Opponent

Penalty No.23/2016
in
Complaint No.08/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa. ... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa. ... Opponent

Penalty No.24/2016
in
Complaint No.09/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa. ... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa. ... Opponent

Penalty No.25/2016
in
Complaint No.10/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa. ... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa. ... Opponent

Penalty No.26/2016
in
Complaint No.11/SCIC/2016

Narayan D.Naik,
s/o data N.Naik,
H.No. 278/1(3),
Sanvarfond Sancoale Goa. ... Complainant

v/s

Mr. Arjun S. Velip,
Public Information Officer,
Village Panchayat Sancoale, Goa. ... Opponent

CORAM

Shri Prashant S.P. Tendolkar, State Chief Information Commissioner,
Smt. Pratima K. Vernekar, State Information Commissioner

Filed on:19 /09/2016.

Disposed on:07/12/2016

ORDER

- 1) While disposing all above complaints by orders, dated 03/08/2016, this Commission directed the PIO to show cause as to why action as contemplated under section 20(1) and/or 20(2) of the Right to information Act 2005, should not be initiated against him. As all the above proceedings involves a common issue between same parties all the above matters are decided by this common order.
- 2) The facts in brief which are involved herein are that the complainant filed applications addressed to the PIO of V.P. Sancoale, i.e. the Respondent herein under section 6 (1) of the Right to Information Act 2005(Act). PIO failed to furnish the information which was sought by the Complainant, within the prescribed time. The applications were not at all responded to by the PIO, as is mandatory under Section 7(1) of the Act. Considering deemed refusal the complainant preferred first Appeals u/s 19(1) of the Act before the FAA/BDO Mormugao Taluka, Vasco Goa. The FAA/BDO Mormugao Taluka, Vasco Goa by its orders directed the PIO to furnish the information to the complainant, free of cost within 10 days from the date of respective orders.
- 3) Even after the orders of FAA/BDO, Mormugao Taluka, Vasco Goa the PIO has failed to furnish to the complainant the required information.
- 4) The complainant by exercising due diligence, sent Reminder to the PIO to furnish the information as directed by the FAA/BDO,

...5/-

Mormugao Taluka, Vasco Goa. In spite of said letter PIO failed to furnish the information.

- 5) Being aggrieved by conduct of PIO the complainant preferred these Complaints under section 18 of the Act.
- 6) This Commission by separate orders, all dated 03/08/2016, disposed the Complaints and on prima facie holding that the action of non furnishing the information attracts penalty under 20(1) and (2) of the Act, issued notice to PIO to show cause as to why action as contemplated under said sections should not be initiated against him.
- 7) In reply to the said notice the PIO filed reply. In his reply, which are similar in all the proceedings, the PIO contended that the complainant had sent RTI Applications addressed to the PIO of V.P. Sancoale, which information was denied. The PIO in his reply admitted that sequence of events.

Regarding the reason for non furnishing information in time, the PIO replied that As per the order of this Commission, dated 3/8/2016 the respondent has already complied with the order and has issued the information sought by the Appellant vide reply dated 21/09/2016. According to PIO the information which has been sought by the Appellant was bulky in nature and old records and also the record were not been catalogued as required hence the information could not be furnished in time. According to him the respondent have not been given full fledged charge and inventory for only last 2 years has been handed over to the respondent besides this record the Respondent is not accessible to other records and submitted that Respondent has joined this panchayat as on 21/08/2016. According to respondent, the audit has been not conducted of the Panchayat for last 3 years and records are incomplete and the appellant is in habit of seeking all the information pertaining to day today affairs of

the panchayat with intention to harass the Respondent by asking for bulky information and moving an application after application without any reasonable cause.

According to respondent he is a public servant has to perform other functions of the panchayat and manage day to day affairs of the panchayat and if the Respondent sit with this type of application then the Respondent shall left with no time to carry out other duties and the intention of the Appellant is to paralyze the functions of the panchayat and that the Appellant is involved in such activities only to settle his personal rivalry with the sarpanch of the Panchayat, Ramakant Borkar with whom the Appellant is in enimical terms and that the appellant has lodge several false complains against the Sarpanch and such information is sought only with the intention to harass the Respondent. While concluding he submitted that the Respondent was unwell and his son namely Anish Velip was undergoing treatment who expired on 01/10/2016 as a result of which the Respondent could not comply with the order of this court in time. He also annexed medical certificate and the certificate of Respondent son Anish Velip and that he does not have any intention to disobey the order of this court.

8) Arguments were heard. Adv. G. Kambli appeared on behalf of PIO. In his submissions, Adv. Kambli submitted that as per the order of this Commission the PIO has furnished the information to Complainant. Regarding the delay caused in furnishing the information he submitted that the information sought was bulky and old records and being not catalogues the information was not furnished.

He further argued that he has not been furnished full charge and only of two years inventory is handed over to him and that audit of Panchayat is not conducted and records are incomplete.

By referring to intention of the Complainant he submitted that complainant is in habit of seeking information and only to settle personal score with the sarpanch, who according to him are in initial terms and that complainant has lodged several complaints.

While concluding his arguments, Adv. Kambli suggested that the son of PIO was ongoing treatment for his ailment who expired on 01/10/2016 and hence respondent should not furnish information as ordered by this Commission.

9) On the other hand Adv. A. Naik for the complainant submitted that the PIO has failed to consider his request for information right from the earlier time by not responding to request. Even after complainant's notice to PIO reminding him of the order of First Appellate Authority, PIO failed to furnish information. According to him the ground raised in defence are after thought and malafide.

10) We have considered the records. The short point to be decided as per proviso to section 20(1) is whether the PIO has discharged the burden of proving that he acted reasonably and deligently. While dealing with the application under section 6(1) of the Act.

11) In all the above cases the complainant has sought information vide his applications under section 6(1) filed during the period from September 2015 to October 2015. Said applications are filed during the tenure of respondent as PIO. It is also seen from records that all these applications filed under section 6(1) are not at all responded to by the PIO as was mandatory under section 7(1) of the Act.

The PIO in his reply to notices issued in these proceedings as also in the course of arguments have raised several reasons for non furnishing of information. However, no such explanations or reason is found to have been offered by the PIO at the first available opportunity

i.e. within thirty days from the date of receipt of application under section 6(1) of the Act.

12) Be that as it may, even after the order of First Appellate Authority the PIO has not bothered to comply with the order of the F.A.A., who is an officer senior in rank to him. It is seen from the records that after the order of first appellate authority, the complainant intimated the PIO regarding the order passed by it and called upon him to furnish the information in compliance to the said order of F.A.A. No cognizance was taken of the said letter.

13) On going through the records of complaint it is seen that the PIO has not attended the hearing before the F.A.A. Had the reasons for non furnishing information to the complainant as raised herein are genuine and true, it is not known as to what prevented the PIO from putting forth such grounds before FAA in support of his reason for non responding to complainant.

14) On perusal of the records, it is seen that the PIO while replying the complaint filed before this Commission initially had taken a different stand. As per his version in reply, dated 26/05/2016, he has called upon the complainant to pay the amount towards fees for information by dispatching the intimation. If such was the action of PIO then and if proved, then no fault could have been found with PIO because the payment of fees for information is mandatory and if not paid by seeker, immunity against penalty can be granted to PIO. However the PIO has failed to produce any evidence to show that such a demand was in fact made.

Similarly in the said reply, dated 26/05/2016, filed to the complainant several contentions were made and documents were relied. However all the documents were found to be irrelevant for the purpose of the issue. Even the version given in said reply was found not in tune with reply to the show cause notices issued herein.

15) The PIO has given the ailment and unfortunate death of his son as a reason for non furnishing the information as per the order of this Commission. Though the Commission express sympathies with the PIO, but said ailments and unfortunate death is not a ground for contravention of section 7(1) of the Act. The information was sought in 2015 but the sickness and death pertains to the year 2016. Thus said reason has no relevancy for causing delay.

16) Considering the reply filed by PIO, no case is made out showing that he has acted reasonably and diligently in furnishing the information to the complainant, and thus has failed to discharge his burden as required under proviso to sanction 20(1) of the act. The explanation and reasons given for delay in furnishing the information also are not supported by any grounds and does not inspire confidence.

17) In the aforesaid circumstances we hold that the PIO, i.e. the respondent herein has contravened the provisions of section 7(1) read with section 18 (1) (c) of the act by not responding to the request for information thereby making him liable for penalty under section 20(1) of the act. We have till date not been shown that such lapse is persistent hence we do not find any ground involving section 20(2) of the Act.

18) considering that the matters are taken up in common and between same parties, we find that ends of justice shall be met by imposing a fine of Rs.3000/- in each complaint, and we consolidate this total fine in all these cases to Rs. 25000/-.

19) We therefore dispose the present proceeding with the direction as under:

a) PIO, Shri Arjun Velip shall pay a total penalty in the sum of Rs. 25000/-.

...10/-

- b) The penalty of Rs. 25000/- shall be deducted from the monthly salary of the PIO, Shri Arjun Velip in five monthly installments, of Rs. 5000/- each. Deduction of penalty shall start from the salary of January 2017.
- c) The Director of Panchayat, Panaji Goa, shall deduct the said penalty of Rs. 25000/- in installments as above from the monthly salary of Shri Arjun Velip PIO, Secretary of Village Panchayat of Sancoal Goa and credit the same to the Government account, with written intimation to this Commission.
- d) Notice pertaining to penalty under section 20(2) for recommending departmental inquiry is withdrawn.
- e) Copies of this order be sent to Director of Panchayat, Panaji –Goa, for information and compliance.

Notify the parties.

Proceedings disposed accordingly.

Sd/-
(Mr. Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-
(Ms. Pratima K. Vernekar)
State Information Commission
Goa State Information Commission,
Panaji-Goa

