

**GOA STATE INFORMATION COMMISSION**

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

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**Penalty 34/2016**  
**In**  
**Appeal No. 04/SCIC/2016**

Shri Sushant P. Nagvenkar,  
H. NO.C-321, Fondvem,  
Ribandar-Goa.

..... Appellant.

**V/s.**

The First Appellate Authority,  
O/o the Superintending Engineer,  
Circle-II(N) Vidyut Bhavan,  
Panaji –Goa.

..... Respondent

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

**Decided on: 09/12/2016.**

**O R D E R**

1) While disposing the present appeal by order dated 14/09/2016, we have directed the First Appellate Authority(FAA), the Respondent No.1 herein to show cause as to why disciplinary action should not be recommended against him.

2) On receipt of the notice the FAA filed a reply interalia contending that the memo of first appeal was not received by him and hence the appeal could not be dealt by him. The appellant therefore was directed to file a copy of the acknowledgment of having delivered the memo of appeal to the First Appellate Authority.

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3) On 6/12/2016 the FAA filed an affidavit affirming that the said appeal memo was not received by it on the other hand the appellant filed inquiry particulars from the postal office.

4) Arguments were to be heard and the appellant submitted that he does not want to argue the matter and that he leaves the matter for appropriate decision of the Commission.

5) We have perused the records. Notice was issued to the FAA to show cause as to why penalty should not be imposed on him on account of his default to hear the first appeal. It is his contention by his affidavit that he could not dispose the appeal as he has never received the same. Though the appellant has filed the inquiry particulars there is no acknowledgment on record, of the F.A.A. having received the appeal

6) The Hon'ble High Court of Bombay, Goa bench at Panaji, while dealing with a case of penalty (Writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others ) has observed:

“11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate.”

7) Considering the above ratio, as there is no convincing and cogent evidence showing that the appeal memo was infact received by the First Appellate Authority, no penalty proceedings in terms of section (20) would lie.

8) In the circumstances we find no substance to proceed with the matter and consequently we dispose the present penalty

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proceedings. The notice dated 14/09/2016 issued by this Commission to the F.A.A. stands withdrawn.

Proceeding closed.

Pronounced in the open proceeding.

Sd/-

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

Sd/-

**(Ms. Pratima K. Vernekar)**  
State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa