

sole prayer of seeking direction to furnish the information as sought by him.

3. After notifying the parties, the matter was listed on the board and was taken up for hearing. During hearing on 2/3/2016, Shri Nilesh Naik represented the Complainant vide letter of authority, dated 02/03/2016. Respondent No. 1/PIO represented by Shri Pradip Prabhudesai and Respondent No. 2/FAA was represented by Shri Chawdikar. On said date the PIO undertook to furnish the information as sought. On subsequent date, i.e. on 11/3/2016 the PIO submitted that inspite of telephonically informing appellant to collect information he did not collect the same. This statement was not denied by the representative of the complainant though he was present.

4. Respondent No. 1 by his reply on 23/03/2016, furnished the copies of information which was sought by Complainant. Since the Complainant and his representative remained absent, the copy of the reply could not be furnished to them. The Respondent No. 1 /PIO also filed on record copy of the memo along with the Registered A. D. served on the Complainant by which the said information was furnished to him. As the complainant remained absent the said fact of furnishing information by post was not controverted and this commission presumes that the information is duly furnished.

FINDINGS:

5. The complainant initially had sought sole relief of providing information. During the hearing on 2/3/16 and 11/3/16 the complainant representative had not objected for receiving information. Accordingly directions were issued by the commission to furnish the information and to file copy thereof along with acknowledgement in proof of receipt. All these stages were witnessed by the complainant.

6. Thereafter on 21/3/2016 an application was filed purportedly as dated 11/3/2016 seeking penal prayers. The prayers so sought are not substantiated by any plea in the complaint. The complaint does not contain any grounds for seeking penalty or compensation.

7. Even after filing of the said application, the complainant has failed to put forth any grounds to substantiate his plea of penalty by remaining present. From the conduct of the complainant it appears that his approach to the issue of penalty is casual.

8. In the present case the Respondent has produced the acknowledgment of postal authority. The record shows that PIO/Respondent No.1 had taken efforts in providing the information. However the conduct of the Complainant and his representative does not appear to be bonafide. At one point of time

they say that they are interested in information and the other hand they are reluctant to collect the same.

9. Be that as it may, as held by High Court of Bombay at Goa in *writ petition No. 205/207, Shri A. A. Parulekar v/s Goa State Information Commission and Others* that, in the case of penalty the evidence should be clear and as required under the Criminal law and that the Commission shall ensure that the failure to supply the information was either intentional or deliberate.

If one applies the ratio of the above decision of the Hon'ble High Court the Complainant has failed to show that the delay in furnishing the information was intentional or deliberate. On the contrary from the records it appears that the Complainant has delayed receiving the information when offered, as such this Commission comes to the conclusion that the levy of penalty on both the Respondents is not warranted in present proceedings.

9. Thus what survives for consideration before this commission is whether the information is furnished. As observed above since the information is already furnished, and as Complainant failed to prove malafide on the part of Respondent No. 1/PIO we dispose the present complaint with the following:

ORDER

Complaint stands dismissed. Liberty granted to the complainant to proceed in accordance with law in case he is not satisfied with the information furnished to his in the course of this proceedings as per memo/reply dated 23/3/2016 filed by PIO herein.

Notify the parties.

Authenticated copies of this Order shall be given to the parties free of cost.

No further Appeal is provided under the Right to Information Act 2005 against this order.

Pronounced in the open proceedings.

Sd/-

(Prashant S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-

(Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

