

# GOA STATE INFORMATION COMMISSION

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

---

**Appeal No. 37/SIC/2015**

Mr. Rosario C. Fernandes,  
R/o H.No. 304,  
Corte Real, Santa Cruz,  
Tiswadi Goa.

..... Appellant

**V/s.**

1. Public Information Officer  
Village Panchayat Santa Cruz,  
Santa Cruz Tiswadi Goa.

..... Respondents

**CORAM:**

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Filed on: 10/03/2015**

**Decided on: 11/07/2017**

## **ORDER**

1. The facts in brief as are involved herein are that the Appellant shri Rosario Fernandes by his application , dated 7/8/14 , filed u/s 6 (1) of the right to Information Act,2005 sought from the Respondent No 1 PIO of the Village Panchayat Santa Cruz , Tiswadi, Goa information on four points as stated therein in the said application .
2. As the said was not responded by the respondent No.1 PIO within stipulated time, deeming the same as refusal , the appellant preferred first appeal on 24/9/2014 before the Block development officer at Panaji being first appellate authority.
3. It is the case of the appellant that that Respondent PIO responded to his application only on 20/10/2014 after the appeal was filed by him before BDO.
- 4 The appellant being not satisfied with the information furnished to him, have approached this commission on 10/3/15 by way of second appeal filed u/s 19 (3 ) of the RTI act thereby seeking prayer for

directions to the PIO for furnishing him the complete information and for invoking penal provisions .

- 5 In pursuant to the notice of this commission ,advocate C. Fernandes appeared on behalf of appellant. PIO shri Hanumant Borkar was present along with then PIO shri Babu Naik .
- 6 In the course of the hearing since the Advocate for the appellant submitted that information at point No (B) have not been provided to him correctly , the present PIO agreed to provide him additional information and accordingly same came to be provided to the appellant on 19/8/16 .
- 7 The Advocate for the Appellant on verification of the same submitted that his query at point (B) has been duly replied by the present PIO and he is satisfied with the information provided to him ,however he insisted for invoking penal provisions as against then PIO shri Babu Naik for not responding his application within time as specified sub-section (1) of section 7.
- 8 Written submissions also filed by the appellant on 29/11/16 The then PIO Shri Babu Naik also filed his reply on 19/4/17 assigning reason for the delay . Rejoinder to the same also filed by the appellant .
- 10 It is the case of the appellant that the information sought was in respect of illegal construction and the information which was sought by the appellant was ready on 13/8/14 as the meeting of the Panchayat body was held on that day ,as such the PIO could have very well provide him the information in time .It is further case that Respondent PIO has deliberately with malafides intention delayed in furnishing the said information for protecting the illegal construction and wrong doers and till date the Respondent have failed to take action against illegal construction done by the neighbor of the appellant . It is further contention that since then PIO did not specify the date of commencement and conclusion of the audit as such he has to put to the strict proof thereof .

11. The then PIO Shri Babu Naik vide his reply dated 19/4/17 have admitted of having caused some delay in furnishing the said information however it is case that St Cruz Panchayat is the busiest Panchayat as such delay is caused on account of administrative reasons, day to day functioning of St Cruz Panchayat and on account of audit of the said Panchayat. He denied of having hand in glove with the wrong doer being not the authority to take the action against illegal construction. He further denied that he had intentions to harass the appellant. He prayed for the lenient order.
12. Apparently on the face of the records, the application of the appellant was not responded within stipulated time. The information came to be submitted to the appellant when the first appeal was filed by the appellant. There is a delay in responding the same but the delay is only marginal and not very significant. The Respondent P. O. tried to justify the same.
13. The Hon'ble High Court of Bombay At Goa, Panaji in writ petition No 704 of 12; Public authority V/s Yeshwant Sawant has held at para 6
- "Imposition of such penalty is a blot upon the career of the officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the case, the explanation for the marginal delay is required to be accepted. In the circumstances, therefore, no penalty ought to have been imposed on the Respondent"
14. Yet in writ petition No. 488 of 2011; Shivanand Salekar v/s Goa State Information Commission, the Hon'ble High Court of Bombay at Goa subscribing the view in the case Shri A.A. Parulekar V/s Goa State Information Commissioner in writ petition No. 205/2007 has held at relevant para 5
- "In the present case, the delay is not very substantial. The information was applied on 26.10.2009 and therefore the same had to be furnished by 25.11.2009. On 30.11.2009 itself the

complainant made his complaint and no sooner, the appellant received the notice of the complaint , the petitioner on 15.1.2010 actually furnished the information. If all the circumstances considered cumulatively and the law laid down in the case of A.A. Parulekar is applied, then, it does appear that there was no justification for imposing penalty of Rs 6000/- upon the petitioner”

15. Ratio laid down in the above two judgements are squarely applicable to the Facts of the present case . I find the explanation given by then PIo shri Babu Naik appears to be probable as such I find no ground to issue show cause notice to him .
16. Since there is nothing brought on record by the appellant that such lapses on the part of then PIO is persistent , a lenient view is taken in the present matter .PIO is hereby directed to be vigilant hence forth while dealing with the RTI matters and any such lapse on his part in future shall be viewed seriously .

Appeal disposed accordingly , proceedings stands closed .

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/-

**(Ms.Pratima K. Vernekar)**

State Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

