

**GOA STATE INFORMATION COMMISSION**

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

Complaint 85/SIC/2009  
In Appeal 88/SIC/2008

Shri Suboad Sawant,  
B-2, Shanti Campus,  
Malaviya Road, Mulund –West,  
Mumbai -400 080.

..... Complainant

**V/s**

Public Information Officer (PIO),  
Shri Pramod Bhat,  
O/o Mamlatdar of Bicholim Taluka.  
Bicholim, Goa

..... Opponent

**Decided on: 24/02/2017**

**ORDER**

1. The present complaint came to be filed by Shri Suboad Sawant on 28/10/2009 against the Pramod Bhat Public Information Officer (PIO), Office of the Mamlatdar Bicholim for not complying with the orders and directions issued by this Commission in the order dated 22/9/2008 passed in the second appeal bearing No. 88/SIC/2008.
2. In pursuant to the notice issued to Respondent PIO a reply came to be filed on him on 26/11/2009 alongwith annexures. Interalia submitting that Order dated 22/09/2008 passed in appeal No. 88/SIC/2008 was complied with and that petitioner have been informed vide letter dated 21/10/2008 based on the information provided to him by ex-Devasthan Clerk Shri Sadanand Gad and by Jr. Steno Mrs. Asha Gad.

3. The Respondent herein also filed application dated 21/02/17 with the Registry of this Commission to withdraw the notice on the ground that the Respondent has retired, alongwith the notarized copy of Pension book issued by Director of Accounts, Pension Section, Panaji-Goa
4. An opportunity was given to the Complainant to collect the same and to file the appropriate reply.
5. In view of the failure of the parties to argue the matter orally/file any written submission, the undersigned finds it appropriate to decide the present proceedings based on the record.
6. Perused the material on record . The point for my determination is a) whether the penalty can be imposed after the retirement of the PIO .
7. The PIO appointed by the public Authority is its employee. In case of default on the part of PIO, sec. 18 read with section 20 of Right to Information Act, (Act) provides for imposition of penalties on erring PIO and not authorities. Thus the liability for payment of penalty is personal to PIO. Such penalty, which is levied in terms of monies, being personal in nature is recoverable from the salaries payable to such employee payable during his services. Similarly recommendation of disciplinary action u/s 20(2) can also be issued during the period of service. After the retirement, what is payable to the employee are the pensionary benefits only.
8. In the present case undisputedly the then PIO has retired. He has received his salaries during his service. As of today he is entitled for pension. Section (11) of Pension Act 1871, grants immunity to the pension holder against its attachment in following words:

“ **Exemption of pension from attachment:** *No Pension granted or continued by Government or Political consideration, or on account of past service or present*

*infirmities or as a compassionate allowance and no money due or to become due on account of any such pension or allowance shall be liable to seizure, attachment or sequestration by process of any court at the instance of a creditor, for any demand against the pensioner or in satisfaction of a decree or order of any such court"*

9. Section 60 (1) (g) of civil procedure code which is reproduced here under also bars attachment of pension following words:

*1) The following particulars shall not be liable to such attachments or sale namely:*

- (a) .....
- (b) .....
- (C) .....
- (d) .....
- (e) .....
- (f) .....

*(g) Stipends and gratuities allowed to pensioners of the Government or of a local authority or any other employer, or payable out of any service family pension fund notified in the gazette, by the central government or the state Government in this behalf and political pension.*

From the reading of above provisions there leaves no doubt on the point of non-attach ability of pension , gratuity etc.

10. Hon'ble Apex Court in ***Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra , Appeal (Civil) 1874 of 1999*** has observed:

*" This Court has been repeatedly emphasizing the position that pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands....."*

11. Under the above circumstances this commission is neither empowered to order any deduction from pension or from gratuity amount of the PIO after his retirement as penalty or compensation. Thus I hold that present proceedings for penalty has become in fructuous and hence is required to be closed.

The proceedings therefore 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.

Pronounced in the open court.

Sd/-

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