

**GOA STATE INFORMATION COMMISSION**

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

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**Complaint No. 35/SCIC/2016**

Shri Vinay D. Chodankar,  
R/o H. No.1522,  
Gaonkarwada,  
Bicholim-Goa. .... Complainant.

V/s

The Public Information Officer,  
Office of Village Panchayat,  
Mayem Vaiguinim, Mayem,  
Bicholim-Goa. .... Opponent.

**CORAM: Shri Prashant S.P. Tendolkar,**  
State Chief Information Commissioner,

**Filed on : 07/06/2016**

**Disposed on: 26/5/2017**

**1) FACTS:**

a) The complainant herein by his application, dated 11/3/2016, filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO under three points therein.

b) The said application was replied on 7/4/2016. However according to complainant the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2, being the first appellate authority.

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c) The First Appellate Authority (FAA) by order, dated 26/5/2016, disposed the said appeal as during the hearing the information was furnished to the satisfaction of the complainant.

d) The complainant has thereafter landed before this commission by way of complaint u/s 18 of the act, praying for penalty u/s 20(1) and (2) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 13/2/2017 filed a reply to the complaint. Arguments were heard.

## **2) FINDINGS**

a) It the contention of the complainant that initially, on the application filed by him under section 6(1) of the Act, he was not furnished the information. According to him the information was furnished only after he exhausted the first appeal and only on receipt of the notice from the FAA. In the present complaint the complainant has submitted that the information as sought by him has been furnished to him and that he is insisting only on penalty.

b) The advocate for the PIO submitted that at the time of the reply to the application under section 6(1), the file was not traceable and hence the information could not be furnished and that the receipt regarding payment of house tax produced before this Commission was in fact produced by the complaint before the FAA and on the bases of which the

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information could be traced and furnished. According to the advocate of the PIO there was no intention to mislead or hide the information.

c) I have perused the records and considered the arguments. It is seen that initially the complainant has sought for information on three points out of which the information at point(1) and (3) was not furnished as according to the PIO the file was not traceable. Regarding point (2), the information sought was **the certified copy of the house tax receipt** and not the information whether the house tax is paid by the party till date. It was replied that the **house tax is not paid till date**. I therefore find the reply of the PIO to point no.2 beyond the scope and requirement of the application u/s 6(1) of the act.

d) In the first appeal the said copy of the receipt were issued. According to the advocate for PIO the said receipts where in fact produced by the complainant for the purpose of verification. In the first appeal the complainant has received the information and he is satisfied with the same. Such observations are contained in the order of FAA and are not rebutted by the complainant .

e) Be that as it may for the purpose of avoiding penalty the act u/s 19(5),grants an opportunity to PIO to prove that the denial of information was bonafide. Such an opportunity is available to the PIO in any appeal, including the First appeal. In the present case during the first appeal, the PIO has furnished the

information based on the clarification and details given by the complainant and on the basis of the same the first appeal was disposed as the complainant was satisfied with the information furnished to him. Thus the PIO has discharged the burden.

f) While dealing with the provisions of penalty u/s 20 of the act , the Hon'ble High Court of Punjab & Haryana has observed:

*“3. The penalty provision under section 20 is only to sensitize the public authorities that they should act with all due alacrity and hold up the information which a person seeks to obtain. It is not every delay that should be visited with penalty. If there is a delay and it is explained the question will only revolve on whether the explanation is acceptable or not. -----”( **Civil Writ Petition no.6504 of 2009(State of Punjab and others V/S State Information Commissioner, Punjab and another)***

g) Considering the above ratio, I do not find that the delay which has occurred in receiving the information by the complainant as intentional or deliberate to invoke the provisions of penalty under the act. In the circumstances I do not find merits in the complaint.

h) Before I part with the proceedings and as observed herein above, the PIO has misinterpreted the application of the complainant u/s 6(1) when in fact the information sought for was the “certified copies of the tax receipts” the information furnished was regarding

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whether the taxes were paid. Thus his response to the application was not in tune with the information sought. I therefore direct the concerned PIO to be diligent henceforth while dealing with the application under the act and respond the same as sought by seeker with the true intent and spirit with which The right to Information Act 2005 is enacted.

With the above observations, I dispose the present complaint with the following:

**O R D E R**

Complaint is dismissed. Proceeding closed.

Notify the parties.

Sd/-

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