

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

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Penalty No. 44/2017  
In  
appeal No. 22/SCIC/2015

Shri Gajanan G.S. Dhumatkar  
Office at Hill Top Apt.,  
Teen Building Alto Betim,  
Bardez, Goa.

..... Appellant

**V/s.**

1. Public Information Officer (PIO),  
Civil Registrar-Cum Sub-Registrar (HQ),  
Registration Department,  
7<sup>th</sup> Floor, Shramshakti Bhavan,  
Patto Panaji Goa.

2. The first Appellate Authority (FAA),  
State Registrar-Cum-Head of Notary Services  
7<sup>th</sup> Floor, Shramshakti Bhavan,  
Patto Panaji Goa.

..... Respondent

**CORAM:**

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

**Decided on: 22/09/2017**

**ORDER**

1. This commission, vide order dated 27/7/17, while disposing the above appeal, had directed the respondent no.1, being then PIO to show cause as to why penalty and disciplinary proceedings should not be initiated against her for wrongly refusing the information to the appellant on a false ground. In view of the said order passed by this commission, on 27/7/17 the proceedings stood converted into penalty proceedings.
2. The showcause notice were issued to then PIO on 8/8/17. In pursuant to the notice the then PIO Ms shubha Dessai appeared and filed her reply on 8/8/17, interalia submitting that information at point No.2 was not specifically refused. It is her

contention that though the inquiry was concluded on 10/9/14 , the report was submitted to the Government and the decision was awaited . It is her further contention that there was no willful intention on her part to refuse the information and that she has acted bonafidely in discharging her duties under the RTI Act .

3. For the purpose of considering such liability as contemplated u/s 20(1) and 20(2) of the RTI Act 2005 the Hon'ble High court of Bombay , Goa bench at Panaji in writ petition No.205/2007 ; shri A A Parulekar v/s Goa State information commission has observed

"The order of penalty for failure to take action under the criminal law. It is necessary to ensure that the failure to supply information is either intentional or deliberate ".

4. In the back ground of above ratio laid down by the Hon'ble High Court, the point arises for my determination is

a)Whether the information at point No.2 was deliberate and intentionally denied to him wrongly on a false grounds ?

5. On perusal of the records, it is seen that PIO has responded the application of the appellant very promptly thereby furnishing the information at point no.1 and the information at point no.2 was not dispensed u/s 8(1)(h) or RTI Act .

6. Section 21 of the RTI Act, 2005 bars from taking any legal proceeding against any person for anything which is done in the good faith or intended to be done under RTI Act or rule made there under; It appears that since the decision of the Government was awaited on the said inquiry, the PIO might have with bonafied belief or in good faith might have not furnished the information to the appellant at point No. 2. There is no cogent and convincing evidence on record to show that information at para no. 2 was denied deliberately and with malafides intention

by the PIO. on the contrary the PIO has shown her bonafides by responding application of appellant well within time thereby furnishing information at pointy no.1.

7. The Delhi, High Court in case Registrar of Companies and others V/s Dharmendra Kumar Gard and Another's writ petition (C)11271/09 has held that ;

"The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e. where the PIO without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, threat the personal penalty on the PIO can be imposed. This was certainly not one such case. **If the CIC starts imposing penalty on the PIO's in every other case, without any justification , it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity.** Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute."

8. Considering the fact of the case and ratio laid down by above court I find the explanation given by the PIO is convincing and probable. I find no grounds to hold that information at point No. 2 was intentionally and deliberately not provided to him on a false ground by the PIO.
9. I am opinion that benefit of doubt has also to go in favour of the PIO as per section 21 of the RTI Act.

10. As such I find that the levy of penalty is not warranted in the facts of the present case. Consequently showcause notice issued on 08/08/2017 stands withdrawn.

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

Ak/-