

**GOA STATE INFORMATION COMMISSION**

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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Penalty 06/2017

In

Appeal No. 198/SIC/2012

Dr. (Ms)Kalpana V.Kamat,  
Aldeira Arcade, 1<sup>st</sup> floor,  
Bhute Bhat, Mestawado,  
Vasco-Da-Gama,Goa.

.....Appellant

**V/s.**

1. Public Information Officer  
Mormugao Municipal Council.  
Vasco-Da-Gama, Goa.
2. The First Appellate Authority,  
Director of Municipal Administration,  
Panaji Goa.

..... Respondents

**CORAM:**

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

**Decided on: 14/11/2017**

**ORDER**

1. This commission Vide order dated 25/01/2017, while disposing the above appeal directed Respondent No. 1 PIO to furnish the complete information at query No. 13 and 14 to the appellant as sought by her vide application dated 13/08/2012 . The commission also directed to then PIO to showcause as to why penal action as contemplated u/s 20(1) of the Right to Information Act 2005 should not be initiated against him and why he should not be made to compensate appellant in terms of section 19(8)(b). .
2. In view of said order passed by this commission on 25/1/2017, the proceedings should converted into penalty proceedings .
3. In pursuant to the said order, showcause notice was issued to then PIO on 7/2/2017 .

4. The present PIO Shri Manoj B. Arsekar appeared along with Advocate V. Pednekar and filed application dated 17/2/2017 thereby informing the name of then PIO as Shri Agnelo A.J.Fernandes . The Chief officer Smt. Deepali D. Naik also submitted an letter in the registry of this commission enclosing thereby the acknowledgment of the notices served upon then PIO Shri Agnelo A.G Fernandes .
5. A reply also filed by the present PIO Shri Manoj Arsekar on 21/3/2017 and also affidavit on 4/7/2017 affirming that information at point No. 13 and 14 have been furnished to the appellant vide letter dated 6/3/2017 based on the information available as per the records maintained by the Mormugao municipal council. A copy of the said letter alongwith the Xerox copy of RPAD was enclosed to the said reply. The Advocate for Respondent also submitted that the inspection of the files also given to the appellant on 25/5/2017.
6. Though the advocate Shri V. Pednekar sought time on number of occasion to file reply of then PIO Shri Agnelo Fernandes to the showcause notice, failed to do so. Last and final Opportunity was granted on 30/10/2017 to then PIO to file written synopsis within 8 days, as parties did not show any further interest in the said matter and as substantial time has since elapsed, the commission felt it appropriate to dispose this penalty proceedings on the basis of the material available in the records.
7. There is nothing placed on records by then PIO to show that order of the First appellate authority was complied with within stipulated time of 7 days from the date of order. The then PIO has also not assigned any reasons for not complying the order of Respondent no. 2. The reply filed before this commission in appeal proceedings on 6/8/2014 is given in casual manner. Though they

have claimed that the information was furnished to the appellant, they have failed to specify the date on which the information was furnished nor relied upon any documents/forwarding letter by which the information is furnished.

8. The Hon'ble Bombay High Court Goa bench in writ petition No.304/2011 Johnson V. Fernandes V/s Goa State information commission ;AIR 2012 Bombay 56 has observed, at para 6

“ Nothing prevented the petitioner for furnishing the information to Respondent de-hors the appeal. In fact, if the petition is intended to furnish the information to Respondent (information seeker) he could have communicated it without waiting for Respondent No. 2 (appellant) to file an appeal ”.

In the said case information was supplied for the first time before the first appellate authority. The Hon'ble High Court dismissed the appeal of the PIO by upholding the order of this commission wherein the penalty of Rs. 2000/- was awarded for failure to supply information in accordance with the provisions.

9. Yet in another decision reported in AIR 2013 Calcutta 128 in writ petition (c) No. 18653(w) of 2009 Madhab Kumar Bandhopadaya V/s State information Commission at relevant para 22 has held;--

“ I am unable to accept that once the petitioner complied with the order of the Commission dated January 9,2009, through belatedly, penalty under S. 20(1) of the Right to Information Act, 2005 could not be imposed on him, Nor do I see any reason to accept the argument that in each and every case the Commission is not supposed to impose Rs. 250 penalty per day”.

10. The ration laid down by above courts are fairly applicable to the facts of the present case. The first appellate authority passed an order on 22/11/12 and the information came to be furnished to the appellant on 6/3/2017.

11. The Appellant have been made to run from pillar to post only to get information. Public Authority must introspect that non furnishing of the correct or incomplete information lands the citizen before FAA and also before this Commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.
12. It is observed that Respondent No. 1 then PIO have not justified the delay in supplying the complete information to the Appellant and also failed to show sufficient cause as to why action should not be taken against him. No documents are placed on record to show that information was furnished to the appellant in compliance to the order of FAA. The averments made in the memo of appeal are also not disputed by then PIO. As such I find that this is a fit case for imposing penalty to then PIO Shri Agnel Fernandes . However since there is nothing brought on record by the appellant such an lapse on the part of the PIO is persistent, a lenient view is taken in the present matter .
13. In the above given circumstances following order is passed made by the appellant are also not disputed by the then PIO.

### **ORDER**

- a) The then PIO, Shri Agnelo Fernandes is hereby directed to pay a sum of Rupees 2000/- (Rupees Two Thousand only) as penalty for not complying the order of the First appellate authority within stipulated time.
- b) The aforesaid total amount as penalty shall be deducted from the salary of then PIO Shri Agnelo Fernandes and the penalty amount shall be credited to the Government Treasury.

Copy of this order be sent to Director of Accounts, Margao, for information and implementation.

Penalty proceedings dispose off accordingly. Pronounced in open proceedings. 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