

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

CORAM: Smt. Pratima K. Vernekar,

State Information Commissioner.

Penalty 14/2010

In Appeal No. 25/SCIC/2010

Mr. Franky Monterio,
H. No. 501, Devote,
Loutolim,
Salcete-Goa
V/s.

.....Appellant

The Public Information Officer,
Secretary, Village Panchayat Loutolim,
Loutolim, Salcete-Goa

...Respondent

Decided on: 15/06/2017

ORDER

1. The brief facts leading to present proceedings are as under:- This Commission by judgement dated 23/06/2010 has directed the Respondent Public Information Officer (PIO) to furnish the information to the Appellant as sought by him vide application dated 18/10/2009 within 15 days from the date of receipt of the order. Showcause notice was also issued to the PIO under section 20 (1) and 20 (2) of the Right To Information Act 2005 for causing delay for furnishing the information.
2. Accordingly showcause notice was issued to then PIO Amol Tendulkar on 30/06/2010.
3. The Appellant Shri Franky Monteiro by his application dated 20/01/2011 contended that inspite of the order passed by State Information Commissioner Respondent choose to defy the Order passed by State Information Commissioner so also failed to submit his explanation to the Showcause notice. It was further contended that the

Honorable High Court of Bombay disposed the Writ Petition filed by Respondent PIO on 6/12/2010 without setting aside the order of this Commission.

4. This Commission then by order dated 17/09/2014 again came to the conclusion that this is fit case for imposing penalty on the PIO and held that such issue cannot be taken lightly and as such a last chance was given to Respondent PIO Amol Tendulkar to explain why penalty of Rs. 5000/- should not be imposed on him in each case separately and why recommendation should not be made to the Department to take adverse entry in annual performance appraisal report.
5. After appointment of this Commission fresh notice were issued to both the parties. In pursuant to the notice the appellant opted to remain absent. Shri Amol Tendulkar appeared and filed reply on 27/04/2017. I have considered the submission of then PIO Shri Amol Tendulkar and also considered the records available in the file.
6. The Respondent PIO Shri Amol Tendulkar had contended that he has acted on the advise given to him by the Advocate for the Panchayat as such it was submitted by him that there was no malafides on his part. He has further contended that reply to show cause notice was also replied by him on 18/11/2014 which was submitted in the Registry of this Commission. He further contended that although he was not Secretary of Village Panchayat, Lotlim he had made letter to then PIO, Elvis Figuerido and it is his contention that the copies where submitted to the Commission on 18/11/2014 in the Registry. In support of the same he relied upon Xerox copy of some Register bearing No. 961 dated 18/11/2014.
7. The reply which was inwards with the Registry of this Commission on 18/11/2014 though at para 6 it refers to the letters dated 19/10/2009 and 29/10/2009, no such copies have been enclosed to the said reply, as such this Commission directed Respondent No. 1 PIO to produce the

copies of such letters then PIO Amol Tendulkar was unable to produce the same in support of his above contention.

8. The then PIO has also not produce on record any document when he was relieved from the responsibility of the PIO from the Village Panchayat Lotlim. Order passed by this Commission dated 23/06/2010 apparently appears to have been not complied. This Commission in the order dated 17/09/2014 has also observed that inspite of this Commission Order dated 23/06/2010 was upheld the information is not furnished to the Appellant. Considering the conduct of then PIO Shri Amol Tendulkor I am of the opinion that PIO without any reasonable cause persistently not furnished information within time.

9. In judgment of the Hon'ble High Court of Karnataka at Bangalore, Division Bench in ***contempt of the court case No. 525 of 2008; G. Basavaraju V/s Smt. Arundhati and another***, while deciding a point for determination as to Whether, for disobedience of the order passed by the Karnataka Information Commission, in exercise of the powers and functions under Sections 18 and 19 of the RTI Act, 2005, the contempt petition under the Contempt of Courts Act, is maintainable, it is held:

“ The powers of the Commission to entertain and decide the Complaints, necessarily shows that, the Commission has the necessary power to adjudicate the grievances and decide the matters brought before it, in terms of the provisions contained in the RTI Act. The legislative will, incorporating Section 20 in the RTI Act, conferring power on the Commission to impose the penalties, by necessary implication is to enable the Commission to do everything which is indispensable for the purpose of carrying out the purposes in view contemplated under the Act. In our considered view, provisions of Section 20 can be exercised by the Commission also to enforce its order. The underlying object in empowering the Commission to

impose the penalty and/or to resort to other mode provided therein, cannot and should not be construed only to the incidents/events prior to the passing of an order by the Commission, but are also in aid of the order passed by the Commission and its enforcement/execution, as otherwise, the legislative will behind the enactment gets defeated.
 ”

10. If the correct and timely information was provided to the Appellant, it would have saved valuable time and the hardship caused to him in pursuing the said Appeal before the different Authorities. It is quite obvious that the Appellant has suffered lot of harassment and mental torture and agony in seeking information under the RTI Act which is denied to him till this date. If the PIO had given prompt and correct information such harassment and detriment could have been avoided.
11. Considering the above facts I find that this is a fit case for imposing penalty as provided under section 20 (1) of the Act.
12. In the result, considering the powers granted to this Commission as held by the Hon'ble High Court in the case of G. Basavaraju (Supra), I order:

ORDER

- a) Then PIO, Shri Amol Tendulkar shall pay Rs. 3000/- (Rupees Three Thousand Only) as penalty.
- b) The aforesaid total amount payable as penalty shall be deducted from the salary of then PIO Shri Amol Tendulkar in two equal instalments and the penalty amount shall be credited to the Government Treasury.
- c) Copy of the order be sent to Director of Accounts Panjim and Director of Panchayat for information and implementation.

Proceeding 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

Kk/-