

GOA STATE INFORMATION COMMISSION

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

Pen. No. 57/2016

In

appeal 17/SCIC/2014

Shri Atmaram Naik,
R/o H.No 161/27/LL27,
Maimollem vasco Goa.

..... Appellant

V/s.

1. Public Information Officer
Mamlatdar of Mormugao,
Office of the mamlatdar of Mormugao.
Vasco Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 05/07/2017

ORDER

1. This commission vide order dated 12/12/16, while disposing the above appeal, had directed the Respondent being then PIO, to Showcause as to why penalty and compensation should not be imposed on him for not providing the required information to the appellant. In view of the said order passed by this commission on 12/12/16, the proceedings were converted into penalty proceedings.
2. The showcause notice was then issued to Respondent No. 1 PIO on 12/1/17. Respondent No. 1 was represented by Advocate Mhamal who filed reply on behalf of then PIO On 16/6/2017.
3. The oral arguments were advanced by Advocate Mahamal on behalf of Respondent No. 1 PIO. Advocate for the respondent submitted that the application of applicant was responded on 11/9/13 within stipulated time thereby calling upon appellant to collect the information on payment of necessary fees. It was further contended that the information was neither refused to appellant intentionally nor malafidely. It was further contended that after sorting out and

segregating all the files , furnished all the data to the appellant on 24/6/16 before this commission . It was further contended that the letter of appellant dated 26/9/13 is only made with the sole intention to fortify with concerted story and such he did not make a mention of the name of the clerk who demanded the payment of fees. It is further case that the appellant had never approached PIO with a grievances stated by him in the memo of appeal and that the present appeal is filed only to harass the staff with some ulterior motive. It is his further contention that in pursuant to the order of the FAA dated 30.12.13 ,he had made a letter to appellant on 6/11/13 to collect the information free of cost and as such question of demanding fees not arise . It is his there further contention that the entire delay was caused by the appellant himself receiving the information. He had enclosed the supporting documents in support of above contention.

4. For the purpose of considering the penal liability ,

The Hon'ble High Court at Bombay at Goa Bench at Panaji in case of Shri A. A. Parulekar V/s Goa State Information Commission and others (Writ Petition No. 205/2007) has observed:

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

1. further also held that:-

"unless and until it is borne on record that any office against whom order of penalty for failure to be sought to be levied and has occasion to complied with a order , and has no explanation or excuse available worth satisfying the forum, possessing the knowledge of the order to supply information, and order of penalty cannot be levied".

5. In the present case the PIO has shown his bonafide at every stage in furnishing the information to the appellant . The reply is also supported by documentary evidence .As such I find the explanation given by the

PIO is convincing and probable . I find no grounds to hold that delay in dispensing information was intentional or deliberate.

6. In the fact and circumstance of the present case and considering the explanation of the then PIO, I find no grounds to impose penalty against him. In the result the show cause notice dated 12/1/2017 issued by this commission in the above appeal stands withdrawn.

Proceedings stands closed .

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

