

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

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

**Penalty 59/2016
In Appeal No. 35/SIC/2015**

Fr. Jacinto Rodrigues,
H. No. 242, Calvaddo,
Cavelossim, Salcete, GoaAppellant

V/s
Public Information Officer (PIO),
The Secretary,
Village Panchayat Cavelossim,
Cavelossim, South- GoaRespondent

Decided on: 4/04/2017

ORDER

1. While disposing of the appeal by order dated 29/12/2016 directed then Public Information Officer (PIO) Shri Advin Carvelho to showcause as to why action as contemplated under section 20(1) and or 20(2) of the Right to Information Act 2005 (RTI Act) should not be initiated against him.
2. The then PIO Adwin Carvelho filed his reply on 28/02/2017. Inter alia informing that when the application under section 6(1) was received in the Office, he was not officiating as PIO and that he has taken only charge of V. Panchayat Cavelosim on 2/01/2014. And upon taking the charge he has made letter dated 20/11/2014 to the appellant requesting to inspect the minute books as sought for in the application dated 23/09/2014. It is his contention that appellant failed to inspect the book.
3. The PIO Adwin Carvelho also submitted that at the time the application under section 6 of RTI Act was made. Shri Joquem Rodrigues was PIO as such this Commission felt it is necessary to hear and obtain the say of said Jouquem Rodrigues as such showcause notice was issued to him. Then PIO Shri Jouquem Rodrigues filed his say on 22/03/2017.

4. It is contention of then PIO Shri Joquem Rodrigues that the appellant orally informed to inspect the records but appellant did not remain present. According to him he was holding additional charge of Village Panchayat Cavelossim as PIO beside secretary of Village Panchayat of Varca.
5. I have considered the replies filed by the respective PIO's along with the records available in the file.
6. The short point to be decided as per proviso to section 20(1) is whether the PIO has discharged the burden of proving that he acted reasonably and diligently while dealing application under section 6(1) of the Act. The then PIO Shri Joquim Rodrigues have admitted vide his reply that his application dated 23/09/2014 was received from the Appellant by him.
7. The records shows that the appellant have sought information vide application under section 6(1) filed on 23/09/2014 for inspection of the minute book and monthly meeting of the Panchayat Body held in the year 2013-2014. The said application were filed during the tenure of the Respondent Joquem Rodrigues as PIO. It is also seen from the records that the said application filed under section 6(1) was not responded to by the PIO as mandatory under section 7(1) of the Act. As such the first appeal was preferred by the Appellant. The order of the FAA reflects that the Respondent had filed reply to the 1st appeal where in they have contended that the intimation was sent to the appellant on 20/11/2014. Hence it could be gather that the said application was not Respondent with stipulatory time as contemplated under the Act. There is delay in responding the said application.
8. PIO Joquem Rodrigues while replying showcase notice had taken the stand that the appellant was orally called upon to inspect the records. However, the PIO has failed to produce any evidence to substantiate such a fact. The reply of the said PIO is also silent regarding the date on which the appellant was intimated to inspect the record. The said reply is also not supported by his affidavit. From the fact before this commission it is apparent that the PIO Joquem is guilty of not furnishing the information within time specified under sub section (1) of 7 by not replying within 30 days as per requirement of the Act.

9. The records shows that when the order was posted by the FAA Shri Edvin Carvelho was officiating as PIO of the Village Panchayat of Cavlossim there is nothing on record placed by Advin Carvelho showing that the order of FAA dated 22/12/2014 was complied by him within 10 days from the date of passing of the order. As such it is presumed that the PIO Advin Carvelho has no respect to abide by the order of FAA who is Officer Sr. in rank to him.
10. The Respondents PIO has to bear in mind that duty cast upon them to co-operate with the citizen by providing the complete information sought within prescribed time period. However, where the PIO failed to discharge his obligation under RTI Act he is liable to penalize in accordance with section 20(1) of the RTI Act.
11. Considering the reply filed by both the PIO's, no case is made out showing that they have acted reasonably, deligently in furnishing the information to the appellant, and thus have failed to discharge burden as requeired under the proviso of section 20(1) of the act. The explanation and reason given for the delay in furnishing the information are also not supported by the any substantial evidence and as such doesnot inspired confidence.
12. The Commission holds that two Public Information Officers Shri Joquem Rodrigues and Advin Carvelho responsible individually for the delay in providing the information and as such this Commission find this is the fit case for levy of penalty on Shri Joquem Rodrugues and Advin Carvelho and I find the ends of justice shall meet by imposing fine of Rs. 2500/- each on both the above named Officers.
13. I therefore dispose the present proceedings with following:-

ORDER

- a) Then PIO, Shri Joquem Rodrigues shall pay total penalty in sum of 2500/-.
- b) PIO, Shri Advin Carvelho shall pay total penalty in sum of Rs. 2500/-.
- c) The penalty of Rs. 2500/- shall be deducted from the monthly salary of then PIO Joquem Rodrigues and Shri

Advin Carvelho and the deduction of the penalty shall start from the salary of the month of May 2017. And credit the same to the Government Accounts with written intimation to this Commission.

- d) Copy of the order to be sent to the Director of Accounts South Goa , Margao and to the Directorate of Panchayat, North Goa at Panaji for information and implementation.
- e) Present PIO is directed to serve the copy of order on both PIO for their information and for necessary action.

Notices pertaining to penalty under section 20(2) for initiating_departmental inquiry is withdrawn. Copies of the Order be sent to Director of Panchayat for information and compliance.

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 under the Right to Information Act 2005.

Sd/-

(Ms. Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa