

**GOA STATE INFORMATION COMMISSION**

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

**Penalty No. 03/SIC/2016**

**In**

**Appeal No.129/SIC/2014**

**CORAM : i) Prashant S. Prabhu Tendolkar**

State Chief Information Commissioner

**ii) Smt. Pratima K. Vernekar**

State Information Commissioner

**Mr. Custodio Dias,**

Resident of H.No.504,

Murida, Fatorda,

Salcete-Goa.

..... **Appellant**

V/s

**1) First Appellate Authority,**

The Chairman South Goa Planning and  
Development Authority, 4<sup>th</sup> floor,  
D wing, Osia Commercial Arcade,  
Near M.P.D.A. Market complex,  
Margao, Salcette-Goa.

**2)Public Information Officer,**

Member Secretary,  
South Goa Planning and Development Authority,  
D wing, Osia Commercial Arcade,  
Near M.P.D.A. Market complex,  
Margao, Salcette-Goa.

..... **Respondents**

**Decided on :09/03/2017**

**ORDER**

1) This Commission while disposing above appeal by order, dated 29/04/2016, has directed the PIO as to why penalty as contemplated u/s 20(1) of The Right to Information Act 2005(Act) should not be initiated against him.

2) In response to said notice the present PIO Shri Ashok Kumar filed the reply on 17/08/2016. On going through the said reply, it was found that the at the relevant time, when the application u/s 6(1) was filed by Appellant, Shri Vinod Kumar Chandra was the PIO and hence his version was relevant and hence notice was issued to him.

3) Shri Vinod Kumar Chandra, on 20/12/2016 filed affidavit in reply. According to him he was the PIO from 18/09/2013 to 24/09/2015 and that has received the application u/s 6(1) dated 08/09/2014 and was replied by him on 13/10/2014. According to him as he has started functioning from 18/09/2013, there was a delay of 5 days as it took same time to take charge and dealing with the matter of SGPDA.

4) Vide his said reply, dated 13/10/2014, while dealing with the application filed u/s 6(1) of the act by the appellant, he had informed the Appellant that most of his questions were hypothetical for which purpose the PIO would have to undertake research work which was beyond the scope of the RTI and that he had also pointed out that to furnish information would disproportionately direct the resources of the Authority.

By referring to the reply/information furnished by the present PIO, then PIO admitted that the information that has been furnished is in consonance of what he has stated in his said reply, dated 13/10/2014 though it is not happily worded. According to the then PIO question NO. 1 of application is not clear as to what is the question for which information is sought and hence vague. So also according to him the question at serial no. 2 of the application dated 08/09/2014 was merely hypothetical since the Appellant asked whether the construction

was being under taken as per condition (15) of the order so as to maintain all setbacks as per approved plan.

According to then PIO owing to a clerical error, Item No. 3 was not answered and state that as per information furnished by the present PIO it is stated that on the date of the inspection carried out for the purpose of completion certificate, parking spaces were provided for as per the approved plan.

With reference to question at serial nos. 4 and 5, it is the contention of then PIO that the Appellant ought to have known that such information cannot be sought from the SGPDA because the said Authority does not issue occupancy certificate nor does it have knowledge about the revocation or any other allied matters connected to occupation certificate.

With reference to question of serial no. 6 and 7 , the question it is the version of then PIO that the same are not only in comprehensive and vague but highly speculative and the answer to this question if any is again connected with occupancy certificate of which the Authority has no knowledge.

According to then PIO Shri Vinod Kumar Chandra he had appropriately dealt with the application under RTI. It is also the contention of then PIO that a reply of the present PIO was given to the Appellant on 27/04/2016 at 11 am. and the matter was fixed for compliance on 29/04/2016 and hence it is clear that the order is complied. Then PIO Shri Chandra has further submitted that right from April 2016 till date the Appellant has not attended, making his intentions clear that he is satisfied with the information received by him and further he does not want to peruse the penalty proceedings.

While concluding his reply he stated that he is attending this matter from 07/10/2016 inspite of a heavy schedule of work in the Town and Country Planning Department

which is a Government and Public Office and prayed expeditious disposal of proceedings

5) We have perused the application filed by Appellant u/s 6(1). On perusal of the said application it is seen that the Appellant at point (1) to (3) has not clarified as to in what form he required the information. Hence we find force in the submission of then PIO that the said points nos. (1) to (3) were vague.

6) Regarding information at point (4) and (5) which pertains to occupancy certificate, it is the contention of then PIO that the occupancy certificates are not issued by SGPDA and that Appellant should have known it. We find this version of then PIO as irresponsible and de horse the responsibility caste on PIO under the Act. When the occupancy certificates are not issued by other authorities, the Act requires the PIO to transfer such request to the concerned authority u/s 6(3) of the act. Even otherwise the reply of PIO to said points is that it requires a search which we feel is an evasive approach.

7) Regarding the information at point (6) and (7), it is the contention of then PIO that the several facts have been assumed by the Appellant and the same are speculative. According to his reply it involved unknown facts.

On perusal of the said points no. (6) and (7), it is seen that though the same contains narration of facts, the requirements of information is '**what action has been taken by the Member Secretary**'. The obvious answer would have been either action taken or not taken. Such a requirement we don't find to be speculative as the information pertaining to it existed.

8) Be that as it may, in the reply, dated 13/10/2014, sent to the Appellant, the then PIO has directed the Appellant to pay Rs.25/- as the cost of providing information as is existing. In the same letter the PIO states that the information is beyond the scope of PIO and RTI Act. We fail to understand as to what PIO wanted to communicate. If the information was beyond scope of dispensation then there was no scope for PIO to demand the fees for information. In any event in dealing with the said application u/s 6(1) the conduct of the PIO appears to be indifferent to his responsibility under the Act.

9) In reply to notice u/s 20(1) it is the contention of PIO that as the information is furnished to Appellant and as it appears that the Appellant is satisfied with the same it should be held that he does not want to peruse the penalty proceedings.

We are unable to concur with this contention. Penalty proceedings is an issue between the commission and the PIO. The seeker has no role to play. Besides this the notice issued herein is u/s 20(1) of the Act for imposition of the penalty payable to the Government and not to the seeker. Hence said arguments have no force.

10) It is also the contention of the PIO that he is Gazetted Group A Officer and have been attending this matter from 07/10/2016 and that he has a heavy schedule of work in his Government Office. While saying so, it appears that PIO has mistaken that his responsibility under the Act is also part of his schedule and duty and not as gratis. Had the PIO dealt with his said application u/s 6(1) appropriately this proceedings would not have arisen. It is the casual and indifferent approach of PIO to his duties under Act, which lead to wastage of public time.

Regarding the contention of then PIO that he had started functioning on 18/09/2013 and that he could not dispose application dated 8/9/2014, within time and it took him some time to take charge and dealing with pending cases, We are unable to digest this version of PIO. The application for information u/s 6(1) was received about one year after he took charge and the version that it took time to take charge beyond one year is unpalatable.

In the light of above analysis we find that the reason given by the then PIO as not convincing.

11) However considering the fact that the application dated 08/09/2014 filed by Appellant u/s 6(1) itself had some infirmities in the nature of vagueness, we grant benefit to the then PIO and discharge him of levying penalty.

12) Before we part with these proceedings, we express our displeasure over the evasive, indifferent and casual approach of the PIO to the application under the Act. PIO's are required to dispense as much information as can be to bring out transparency in functioning of the Public Authorities. We find such an approach missing herein. We expect that hence forth the then PIO shall be diligent in discharging his duty as a PIO under the Act.

13) In the result we withdraw the notice, dated 29/04/2016, issued u/s 20(1) of the Act, to PIO. Proceedings are therefore dropped.

A copy of this notice be also sent to the then PIO, Shri Vinod Kumar Chandra, Town Planner, Town and Country Planning Department, Ponda Taluka, for information.

Pronounced in open proceedings.

Proceedings closed.

**Sd/-**

**Shri Prashant S. Prabhu Tendolkar**  
State Chief Information Commissioner

**Sd/-**

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