

**GOA STATE INFORMATION COMMISSION**  
Kamat Towers, seventh Floor, Patto, Panaji, Goa

**CORAM : Shri Prashant S.P. Tendolkar,**  
State Chief Information Commissioner

**Penalty case no.1/2017**  
**IN**  
**Complaint no.27/SCIC/2016**

Shri Prakash Bandekar,  
House no.110, Shivkrupa,  
Shree Ganesh Colony, Punola,  
Uccassaim, Bardez-Goa -----Complainant

V/S  
The Then Public Information Officer,  
Shri Sabaji Shetye,  
Dy. Collector & S.D.O. Marmugao,  
Vasco Da Gama. -----Respondent

**DECIDED ON: 21/4/2017**

**ORDER**

- 1) While deposing the above complaint by order, dated 20/01/2017, Commission has issued notice to then PIO Shri Sabaji Shetye, to show cause as to why action u/s 20(1) and/or 20(2) of The Right to Information Act 2005(Act) should not be ordered against him.
- 2) The then PIO Sabaji Shetye, on 05/04/2017 filed his reply in person. According to him the Complainant had filed two application u/s 6(1) of the Act on 28/07/2015 and in response to the same he, by his letter, dated 21/08/2015, he called upon the Complainant to inspect the records, for providing the information.

According to then PIO, inspite of said letter being received by Complainant on 24/08/2015, without inspection, he approached the First Appellate Authority (F.A.A.) with first

appeal on 23/09/2015, who by his order ,directed the PIO to furnish the information within 15 to 20 days from the date of receipt of order, which was received on 03/02/2016. According to then PIO, in the meantime, the information was furnished to complainant on 17/12/2015.

The then PIO has also narrated the sequence of events that had occurred after he was relieved of the charge as PIO, which according to me are redundant for the purpose of this penalty proceedings. Nevertheless, as per the submissions of then PIO, the subsequent PIO Shri Gourish Sankhwalkar, after reconstructing the file, furnished the information to Complainant on 16/08/2016, before this Commission in the course of complaint.

- 3) The Complainant does not dispute that as of today the information is furnished to him. The only thing that requires consideration in this proceedings is whether the delay in furnishing the information was deliberate or intentional.
- 4) According to then PIO, the application u/s 6(1) of the Act filed by Complainant was received by him by post on 28/07/2015. This fact is evident from the inward entry on the said letter as on 28/07/2015, as produced by the then PIO. The said letter was responded by PIO on 21/08/2015 calling for inspection. Thus the PIO has responded within the stipulated time by requesting inspection. I do not find any response from the Complainant for inspection but he files appeal on 23/09/2015.
- 6) If one peruses the above sequence, I find that there is no refusal on the part of PIO in furnishing information. In the appeal the PIO had contended that the file is not traceable and after accepting this version, the PIO was directed by F.A.A. to trace the file and furnish the information.
- 7) It is nowhere the contention of the Complainant that the

information was hidden inspite of existence of the file. Complainant does not dispute the said fact and that the information now furnished is by reconstructing the file.

- 8) The Hon'ble High Court of Bombay, Goa bench at Panaji, while dealing with a case of penalty (***Writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others***) 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.”***

- 9) By applying above ratio to the case in hand, I find no cogent and convincing evidence to conclude that the delay in furnishing information to the Complainant is intentional or deliberate. Hence I find that the proceedings u/s 20(1) and/or 20(2) cannot be invoked herein.

In view of the above, the notice issued by this Commission is required to be withdrawn, which I hereby do. The notice, dated 20/01/2017 in complaint no.27/SCIC/2016, issued to the then PIO, Shri Sabaji Shetye stands withdrawn.

Proceedings closed.

Notify parties.

**(Shri Prashant S. P. Tendolkar)**  
State Chief Information Commissioner,  
Goa State Information Commission,  
Panaji, Goa