

GOA STATE INFORMATION COMMISSION

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

Penalty case No.02/2017

in

Appeal NO.48/SCIC/2016

Shri Sebastian S. Mendonca,
H. No.148,Ararim Socorro,
P.O. Porvorim.

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Appellant

V/s

The Public Information Officer,
Shri Avinash Palni,
Panchayat Secretary of Pirna,
Bardez-Goa..

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Respondent

CORAM : Shri. Prashant S. P. Tendolkar ,
State Chief Information Commissioner
Smt. Pratima K.Vernekar,
State Information Commissioner

DECIDED ON : 13.02.2017

O R D E R

1. This Commission while disposing the above appeal vide order, dated 22/12/2016, had directed the then PIO Shri Avinash Palmi, to show cause as to why penalty, as contemplated u/s 20(1) and/or 20(2) of the RTI Act should not be imposed on him.
2. Pursuant to said notice the then PIO Shri Palni remained present today alongwith his advocate S.G. Kalangutkar and filed his reply to the notice.
3. Vide his said reply the then PIO submits that at the time when the directions were issued by the F.A.A as per order in first appeal, one Shri Chetan Shirodkar was the PIO. According to Shri Palni he joined the V.P. Socorro on 1/10/2015 and continued till 3/12/2015 and thereafter was transferred to V.P. Pirna on 4/12/2015.

Further according to him during his posting as PIO of V.P. Socorro he was given additional charge as first Polling Officer for

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Elections of Mapusa Municipal Council and was required to attend the office of sports complex and also training sessions and was unable to attend office most of the time. According to the then PIO false and misleading statements are made by present PIO. Alongwith the reply, the PIO has annexed copies of the joining report dated 01/10/2015, the relieving order dated 30/11/2015, order of appointment as Presiding Officer dated 5/10/2015, the notice issued by FAA as also order of F.A.A.

4. Arguments were heard. Advocate S. Kalangutkar submitted that though the respondent was then PIO of the said public Authority when the application was filed, he had joined office on 1/10/2015 and soon thereafter from 5/10/2015 he was deputed for election training . According to him, the concerned elections were held on 25/10/2015 and the application was received during his absence in office for election work. According to him after conclusion of election, he had to give more time for office work and the application filed by appellant lost his site. He further submitted that after posting to V.P. Socorro in October and immediately after completing his additional work as First Polling Officer, he was relieved from the said Office as per Order dated 30/11/2015 and by the time he could settle in the office he was transferred.

Thus according to Adv. Kalangutkar the delay caused in furnishing information was not intentional or deliberate and hence no penalty be imposed on him.

5. We have perused the records and considered the reply. From the records, it is found that that the appellant had filed application for information u/s 6(1) on 20/10/2015. As per the annexure dated 5/10/2015 attached to the reply the respondent PIO was deputed for training and for election duty till 25/10/2015. Thus, I find same substance in the contention of the PIO that he was not on regular duty with the V.P. as on date of receipt of application. After conclusion of election, he had resumed the duties but within about a month he was again relieved.

In the above circumstances, I find that though under the RTI Act 30 days time is granted to PIO to respond to application, under section

6(1), the present PIO could not get the same in view of his duties followed by transfer order. The explanation as given by the PIO Shri Palni, thus appears to be probable.

6) 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.”

7. Considering the explanation as given by PIO, I do not find that the delay was intentional or deliberate. Hence I find that this is a fit case to withdraw the notice issued to the PIO.
8. However, before I part with this case, I observe that this should not be held as a precedent for delaying the information to seeker and that the present order is passed only in the facts and peculiar circumstances of this particular case. The PIO herein is further directed that the law requires him to attend the application of seeker under the Act on priority, as per the schedule of time contained.
9. In the aforesaid circumstances I hold that the PIO having made out cause sufficient to condone the lapse, the proceeding need not continue and the notice dated 22/12/2016, issued by this commission is withdrawn.

PIO to be notified.

Pronounced in open proceedings.

Proceedings closed.

Sd/-

(Mr. Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa

Sd/-

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