

**GOA STATE INFORMATION COMMISSION**

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

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

**Penalty No.14/2009 in Appeal No.235/SCIC/2008**

Shri Surendra Furtado,  
Timotio Buldg, 1<sup>st</sup> floor,  
Next to Vavhind Times,  
Panaji-Goa.

----- Appellant

**V/s**

- 1) The Public Information Officer,  
Corporation of City of Panaji,  
Panaji –Goa.
- 2) The First Appellate Authority,  
The Director,  
The Directorate of Municipal Administration,  
Panaji –Goa..

----- Respondents

**Penalty No.15/2009 in Appeal No.238/SCIC/2008**

Shri Surendra Furtado,  
Timotio Buldg, 1<sup>st</sup> floor,  
Next to Vavhind Times,  
Panaji-Goa.

----- Appellant

**V/s**

- 1) The Public Information Officer,  
Corporation of City of Panaji,  
Panaji –Goa.
- 2) The First Appellate Authority,  
The Director,  
The Directorate of Municipal Administration,  
Panaji –Goa..

----- Respondents

Decided on :13/02/2017

**O R D E R**

- 1) This Commission while disposing the above referred appeals by two separate orders both dated 24<sup>th</sup> September 2009, has ordered to

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issue notice to then PIO, Shri Melwyn Vaz, to show cause as to why penalties should not be imposed on him on account of delay in providing the information.

- 2) Said notice was replied by PIO by his reply filed in this Commission on 27/10/2009, as also by subsequent reply, filed on ` 30/03/2010. Vide said reply it is the contention of said PIO that as on the date of the application filed by appellant i.e. on 22/08/2009 and 15/09/2008 he was holding full time charge as Additional Director of Panchayat-I and he was conducting cases in Panjim and Margao in afternoon. According to him he was attending duties of CCP only for about 1 to 2 hours in morning.

PIO has further stated that there was mess of files in CCP and with his presence for about 1 to 2 hrs, he could not fulfill his duties to furnish timely information. According to him it was the practice of staff to make the files of opposition corporators disappear and the appellant being one of such opposition corporator, his concerned file was not traced.

The PIO while concluding his arguments submitted that though there is no logical explanation but he has expressed his helplessness in delay in furnishing information. The PIO has tendered unconditional apology. The present matter was adjourned sine die for longtime hence the PIO was notified but inspite of notice he did not appear. The matter being old, the same is taken on priority and considered based on the records.

- 3) I have perused the records. The matter pertains to the year 2009, when the appeal was disposed. It is a common scenario in the Government office that several charges of different offices are handled by a single officer. The PIO herein was the Commissioner of CCP at the relevant time and being the head of office his explanation that he could not giving sufficient time for dealing with application,

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appears reasonable and probable. In fact I observe that for giving priority to RTI matters, the head of office should not be designated as PIO and such work should be designated to another staff below such ranks of head of office and who is a fulltime employee.

- 4) The PIO herein had shown cause which is related to his other public activity with another public authority and hence I accept his explanation. The incident of delay has been caused about 8 years back and till this date the PIO was under constant stress of penalty. The Hon'ble Supreme Court in the case of: **Central Board of Secondary Education & another V/s Aditya Bandopadhyay** (Civil Appeal no.6454 of 2011) has observed :

*"-----The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties."*

- 5) **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."**

- 6) 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.

- 7) 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.
- 8) 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 24/09/2009, issued by this commission is withdrawn.

PIO to be notified.

Pronounced in open proceedings.

Proceedings closed.

Sd/-  
**(Mr. Prashant S. P. Tendolkar)**  
State Chief Information Commissioner  
Goa State Information Commission  
Panaji-Goa