

GOA STATE INFORMATION COMMISSION
'Kamat Towers' Seventh Floor, Patto, Panaji – Goa

Penalty No. 41/16 in appeal 09/SIC/2015

Mr. Benjamin Pereira,
H. No.166/A,
Pereira Waddo, Majorda Utorda,
Salcete-Goa.

.....

Appellant

V/s
The Public Information Officer,
Village Panchayat of Majorda,
Utorda, Calata, Majorda Salcete-Goa.

.....

Respondent

CORAM

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

Passed on: 12/01/2017

O R D E R

1. This commission, while disposing the present appeal has issued a notice to PIO to show cause as to why action as contemplated u/s 20(1) and/or 20(2) of the Right To Information Act 2005, should not be initiated against him for not furnishing the information to the appellant within the time as stipulated under the act.

2. Pursuant to the said notice the PIO filed the reply on 13/12/2016. In the said reply it is his contention that he took charge of the office as secretary on 19/2/2013 and on 22/4/2015 he was transferred to office of BDO. It is according to him that from 5/7/2016, he is transferred to village Panchayat Chicalim. As per his reply in view of the above circumstances he could not furnish the information to the appellant in time as required under the act.

3. The PIO has further submitted that non furnishing of the information was not on account of any willful or deliberate attempt to

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conceal the information and that it was wholly on account of the transfer due to which he lost the track of application. The PIO therefore has prayed for withdrawal of the show cause notice.

5. We have perused the records and also considered the explanation as furnished by the PIO. The appellant had filed the application seeking information on 20/8/2014. Admittedly as per the reply of PIO on the said date and for thirty days thereafter i.e. till 20/9/2014, he was on duty in the same panchayat. No explanation is furnished by the PIO as to why he could not furnish the information during his service with the same panchayat during said time.

6. Be that as it may, after filing of the first appeal, the FAA was pleased to direct the PIO to furnish the information within 10 days from 25/11/2014. This period expired on 5/12/2014. As per the version of the PIO, during this period also he was in service with the same panchayat. He has not shown any reason as to why he did not furnish the information upto 5/12/2014. Thus we find that the a conduct of PIO is not furnishing information was not bonafied.

7. The period of service and the dates of transfer, as stated by the PIO, have no relevancy to the period during which the original application was to be responded. Said period has also no relevancy for the period which was granted by the First appellate authority for furnishing the information. The PIO has not made out any ground for non furnishing of the information within time and has tried to give a lame excuse for his acts causing delay.

8) Considering the above conduct of the PIO we find cogent and convincing evidence that the PIO has malafide not given a response to the appellant to his request for information within the time limit specified under section 7(1) of the act. The PIO therefore is

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liable for penalty under section 20(1) of the Act. The above conduct on the part of the PIO has also saddled the appellants with unnecessary expenses of filing the second appeal and pursuing the same before this commission.

9) Considering the above situation we hold that the appellant is entitled to receive from the Village Panchayat of Majorda, Utorda, Colata, Salcette, Goa which is the Public Authority, compensation which we quantify in the sum of Rs.5000/-. We also hold that the PIO, having committed breach of section 7(1) is liable to pay penalty of Rs.250/-per day for the delayed period, which we hold only from the due date as per the order of First Appellate Authority i.e. from 6/12/2014 till 12/8/2016, totally 614 days. However we quantify and round it to Rs.10000/-.

10. in exercise of the powers conferred under section 19(8) (b), we also require the public authority i.e. **"the office of village Panchayat Majorda-Utorda-Calata, Majorda Salcete, Goa"** to pay to the appellant a sum of Rs.5000/-(Rupees five thousand only) as compensation. The said amount shall be deposited in the office of this commission within thirty (30)days from the date of receipt of this order by it. On deposit of the said amount the office shall pay the same to the appellant.

In addition to the above, the PIO, Shri Narayan Ajgaokar, shall pay a penalty in the sum of Rs.10000/-(Rupees ten thousand only) to be deducted from his salary. The penalty shall be deducted as above by the director of accounts. The said penalty amount shall be deducted in two equal installments of Rs.5000/-(Rupees five thousand only) each by way of deduction from his salary starting from February 2016.

Parties to be intimated.

Pronounced in the open proceedings.

Issue letter alongwith copies of this order to Secretary, office of Village Panchayat of Majorda, Utorda, Calata, Majorda, Salcette Goa and Director of Accounts, to comply with the order hereof.

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