

BEFORE THE GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji, Goa.

CORAM: Shri Prashant S. P. Tendolkar
Chief Information Commissioner

Complaint No.49/SCIC/2016

Narayan D. Naik,

s/o Datta n. Naik,
H. No. 278/1(3),
Savarfond, Sancoale – Goa.

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Complainant

V/s

Mr. Deepesh N. Priolkar

Public Information Officer,
Administrator of Comunidades,
South Zone, Margao – Goa..

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Respondent

Filed On :08/11/2016

Disposed On : 24/04/2017

ORDER

1. The Complainant has filed the present complaint u/s 18 of The Right to Information Act 2005 (Act for short) complaining inter alia that the PIO has refrained to furnish the required information and further has denied the same.
2. Based on the contention as raised in the complaint , this Commission has issued a notice to the PIO to show cause as to why penalty u/s 20(1) and/ or 20(2) of the Act should not be imposed on him. A copy of the said notice was also sent to the Complainant for information.
3. The PIO filed his reply on 07/02/2017 a copy of which was furnished to the Complainant. According to the PIO, the information sought from it was pertaining to Comunidade of Sancoale and as per the practice, the Escrivao of Sancoale Comunidade was directed to furnish the information to PIO for onward furnishing to the Complainant. A copy of such

letter is filed on record by PIO. Said letter is also relied upon by the Complainant in his complaint.

4. On the subsequent dates of hearing the Complainant remained absent. On 16/03/2017 the PIO personally appeared and submitted that he will try to obtain the information from the Escrivao for being submitted to the Complainant.

Accordingly on 17/04/2017, the representative of PIO appeared and filed memo that the information is obtained and can be deposited in this proceedings. On the said date the Complainant was absent. By order on said application, the PIO was directed to deposit the said information in the appeal, which according to her was pending before this Commission and which pertained to same application filed by Complainant u/s 6(1) and which is involved in this complaint. As the clarification was sought from PIO and as Complainant remained absent, the matter was posted for orders.

5. I have perused the records. The Complainant had sought information pertaining to another entity from the PIO, i.e. comunidade of Sancoale. Under article 88(3) of the code of comunidade (as amended by Goa Act 3 of 1998) all the documents and the records of the comunidade shall be under the custody of the registrar, who shall be responsible to the Administrator of comunidades. Hence the office of administrator can call for the same for dispensation, if sought by a seeker. In other words the information sought though was not pertaining to a public authority, the same was accessible to a public authority i.e. Administrator under the code of Comunidade.

6. It is in exercise of such power under article 88(3) the PIO has sought the information from the Escrivao, promptly after receipt of the application u/s 6(1) of the Act. There is no dispute regarding this gesture of PIO. The PIO has accordingly collected the information now and has offered the same. In the above situation I find the explanation/ reply of the PIO to be satisfactory and hence I find no deliberate intention of PIO to delay information.
7. 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 intentional or deliberate.”***
8. 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. Consequently the notice, **dated 20/01/2017**, issued to the PIO, stand withdrawn. The complaint stand dismissed.

Proceedings closed.

Notify parties.

Sd/-

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

