

# GOA STATE INFORMATION COMMISSION

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

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**Appeal No. 232/2017**

Smt. Vishranti S. Vaigankar,  
H.No. 282, St.Cruz,  
Near Dempo House,  
Santa Cruz, Tiswadi Goa.

..... Appellant

**V/s.**

1. The State Public Information Officer,  
Secretary, Village Panchayat of Santa Cruz,  
Santa Cruz , Tiswadi Goa. .

2. Block Development Officer .  
First Appellate Authority,  
Tiswadi Taluka,  
Junta House 6<sup>th</sup> floor , Panaji Goa.

..... Respondents

**CORAM:**

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Filed on: 20/12/2017**

**Decided on: 25/1/2018**

## **ORDER**

1. The present second appeal filed by the appellant Mrs. Vishranti S. Vaigankar thereby seeking prayer only of invoking penal provisions as against respondent No. 1 PIO on the ground that respondent PIO knowingly has given the information after the huge delay and that to before the first appellate authority.
2. The appellant had enclosed following documents to the memo of appeal
  - a. The application dated 12/10/2017 filed u/s6(1) of RTI Act alongwith applications/complaints dated 23/8/2017 and 16/5/2017 both addressed to Sarpanch of Santacruz by appellant,
  - b. The memo of first appeal dated 16/11/2017.

- c. The notice of hearing of first appellate authority.
  - d. Letter dated 21/10/2017 addressed to the appellant by Respondent PIO providing him the information alongwith the copy of resolution dated 15/9/2017.
  - e. The copy the order of First appellate authority.
3. In pursuant to the notice of this commission, the appellant was present alongwith Advocate Vedraj S. Torasakar . Respondent No. 1 Shri Rajesh Naik was present alongwith then PIO Shri Hanumant Borkar. Respondent No. 2 absent.
4. It is the contention of the appellant that she had sought for the certified copies of the said information in order to initiate legal action against one Vivek Vaigankar. It is her contention that she had files two complaint with the Sarpanch of the Santacruz against Shri Vivek Vaigankar in regards with the toilet area and those complaint are not acted upon by Panch member.
5. The Appellant vide her memo of appeal have also contended that her application was not responded within a stipulated period as per section 7(1) of the Right to information Act, 2005. It is her grievance that the first appellate authority have disposed the said appeal during the first hearing itself. It is her further contention that information came to be furnished to her before the first appellate authority after the considerable delay and on that ground she seeks for invoking penal provisions.
6. The Respondent PIO submitted that the information as sought by the appellant was provided to her vide forwarding letter dated 21/10/2017 and the appellant has endorsed on the said letter of having received the information . PIO have further contended that there were no malafides on their part and they have acted diligently
7. Even though appellant has claimed that there was huge delay and the information is provided to her before first appellate authority, the said statement of her is not supported by any supporting documents. The onus was on appellant to prove the same which she

miserable failed to do so. On the contrary the letter dated 21/10/2017 by PIO which is produced by the appellant herself reveals that the application of appellant was responded well within stipulated time. The order of the first appellate authority dated 5/12/2017 also speaks that Respondent vide his letter dated 21/10/2017 had furnished the information to the appellant which was sought by her vide RTI application dated 12/10/2017. The said order also speaks that appellant has prayed to dispose the appeal on the ground that information has been furnished to her.

8. Even presuming for a while a case of the appellant that the information is furnished to her before the first appellate authority, the Hon'ble High Court of Bombay at Goa in writ petition No. 704/12 public authority V/s Yashwant Sawant has held that at para 6;

*" the imposition of such penalty is a blot upon the career of the officer at list to some extent ,in any case the information ultimately furnished though after some marginal delay in such circumstances , therefore, no Penalty ought to have been imposed upon the PIO'.*

9. In yet another decision the Honble High court of Bombay at Goa in writ petition No.488/11; Shivanand Salelkar v/s Goa state Information commission has held at para 5

*" The delay is not really substantial . the information was applied on 26/10/2009 and therefore the information had to be furnished by 25/11/2009. On 30/11/2009 complainant made his complaint and no sooner the petitioner received the notice of complaint, the petitioner on 15/1/10 actually furnished the information. If all such circumstances considered cumulatively and the law laid down by this court in the case of A A Parulekar (supra) is applied , then it does appears that there was no justification for imposing penalty of Rs 6000/- against the petitioner. "*

10. The facts of the present appeal are more or less similar to the facts of the above cases. In the present case also the appellant has claimed herself that information is furnished to her before the first appellate authority. Besides that there is no cogent and sufficient evidence brought on record by the appellant to prove that the information was not furnished to her intentionally and deliberately. As such by subscribing to the above ratios and also ratio laid down by the High Court in case of the Hon'ble High court of Bombay , ***Goa bench at Panaji in writ petition No.205/2007 ; Shri A A Parulekar v/s Goa State information commission***, I am of the opinion that the facts of the present case does not warrant invocation of penal provision as against PIO as such I am declined to grant relief sought by the appellant.
11. This commission has no jurisdiction and is not empowered to take cognizance of the grievance of the appellant that Sarpanch has not taken any action on her complaint . The appellant if so desire may approach the competent authority with such grievances.

Appeal disposed accordingly.

Notify the parties

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Proceeding stands close.

Sd/-

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