

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

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

Appeal No.110/2018/CIC

Shri Jawaharlal T. Shetye,
H. No.35/A Ward No.11,
Khorlim Mapusa –Goa. Appellant.

V/s

- 1) The Public Information Officer,
Mapusa Municipal Council,
Mapusa – Goa.
- 2) The First Appellate Authority,
The Chief Officer,
Mapusa Municipal Council,
Mapusa – Goa. Respondents.

Filed on: 04/05/2018

Disposed on: 31/08/2018

O R D E R

- 1) The appellant herein has filed the present appeal with a grievance that he has not been furnished the information as sought. It is his contention that his application, dated 12/02/2018, filed u/s 6(1) of the Right to Information Act 2005, was not replied by PIO within time and the first appeal filed by him was not disposed. By this appeal the appellant has also prayed for invoking section 20(1) and 20(2) of the act as also for compensation.
- 2) In the course of this proceedings, on 05/07/2018 the PIO Shri Shivram Vaze filed reply to this appeal alongwith copy of the response u/s 7(1) and copies of

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the purported information furnished to the appellant. According to him the information at point 1 to 5 and 8 & 9 were ready in the course of first appeal and at 6 and 7, was pertaining to accounts section, for which there is another PIO. However said information was placed before this commission.

- 3) The matter thereafter was posted for hearing on two occasions on which date the appellant remained absent there is no contention of the appellant on record that the information as furnished is not the true information. In the absence of such contention this Commission holds that the information as was applied is furnished and no intervention of this Commission is required.
- 4) With reference to the relief of penalty as prayed for by the appellant it is the contention of PIO that the information sought was voluminous and pertains to various sections of the respondent Authority. The compilation of which took time.
- 5) 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 and others***, while dealing with the nature of penalty under the act 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) Besides the above factor, as held by the *Hon'ble High Court of Punjab & Haryana in the case of Dalbir Singh V/s Chief Information Commissioner Haryana and others (CWP NO.18694 of 2011)* in the case of the information sought was voluminous the dispensation of information cannot be expected within the time as prescribed. This Commission also notes that the appellant herein has several information sought from the same authority of the last several years, which has resulted in several second appeals and complaints before this Commission.
- 7) The advocate for PIO has also filed on record copy of the order of superannuation of Shri Shivaram Vaze, the concerned PIO.
- 8) Section 11 of The Pension Act 1871, inter alia provides a bar against attachment of the pension receivable by the retired employee.

While considering the scope and extent of attachment of the retrial benefits like gratuity and pension, the Hon'ble Supreme court in the case of ***Gorakhpur University and others V/S Dr. Shilpa Prasad Nagendra (Appeal (civil)1874 of 1999)***

“ This court has been repeatedly emphasizing the position that pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands.....”

Again the Apex court in the case of **Civil Appeal no.6440-41 of 2008 Radhe Shyam Gupta V/S Punjab National Bank** has observed

“...Even after the retrial benefits such as pension and gratuity had been received by any person, they did not lose their character and continued to be covered by the proviso(g) to section 60(1) of the Code of Civil Procedure”

9) In the above set of facts this Commission finds no grounds to proceed with this appeal and consequently the same is required to be disposed.

10) In the result the appeal stands disposed. Proceedings closed. Notify parties.

Pronounced in open proceedings.

Sd/-

(P. S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission
Panaji - Goa