

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

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

Appeal No.113/2018/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 has a grievance that he has not been furnished the information as sought. It is his contention that his application, dated 01/02/2018, 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 24/07/2018 the PIO Shri Shivram Vaze filed reply to this appeal alongwith the response u/s 7(1) and copies of the purported information furnished to the appellant.

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3) The matter thereafter was posted for hearing 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 has no reasons to disbelieve that the information as 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. According to him the information's was to be compiled and hence the delay.

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) The PIO has filed on record the order of the Authority by which the then PIO Shri Shivram Vaze is relieved of his charge after superannuation. Being so the proceedings herein for penalty would be infructuous as any invocation of section 20(1) or 20(2) is personal in nature.

7) Section 11 of The Pension Act 1871, interalia 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 retiral benefits such as pension and gratuity had been received by any person, they did not lose their character and continue to be covered by the proviso(g) to section 60(1) of the Code of Civil Procedure”

8) 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.

9) In the result the appeal stands disposed accordingly.

Proceedings closed. Notify parties.

Pronounced in open proceedings.

Sd/-

(P. S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission
Panaji - Goa