

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

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

**Complaint No.12/2017**

Shri Jawaharlal T. Shetye,  
H. No.35/A Ward No.11,  
Nr. Sateri Temple,  
Khorlim Mapusa-Goa.

..... Complainant

**V/s**

1) The Public Information Officer,  
The Dy. Registrar of Co-Op Societies (Admn)  
Sahakar Sankul , 4<sup>th</sup> & 5<sup>th</sup> floor Patto,  
Panaji –Goa.

2) The First appellate Authority,  
Registrar of Co- Op. Societies ,  
Sahakar Sanjul, Patto, Panaji –Goa.

..... Opponents

**DATE:09/03/2018**

**O R D E R**

- 1) By this complaint, the complainant has prayed for an order directing the respondents to implement section 4(1)(a) and 4(1) (b) of the RTI Act 2005 as also has prayed for penalty against the PIO and also for an order recommending inquiry against PIO u/s 20(1) and (2) of The Right To information Act 2005.(Act for short).
- 2) The grievance of the complainant is that by his application dated 28/02/2017, filed u/s 6(1) of the act he sought certain information from the respondent PIO. The information was neither furnished nor was rejected within thirty days and hence he filed first appeal.

...2/-

According to complainant during the hearing of first appeal, the information was furnished which according to the complainant is not to his satisfaction. The complainant has therefore filed present complaint, seeking reliefs as above.

- 3) Notice of the proceedings was sent to the PIO. The complainant was also notified. The parties appeared. The PIO on 17/11/2017 filed his reply. Copy of the same was furnished to complainant. Subsequently complainant remain absent continuously. On 11/01/2018 the PIO filed additional written arguments.

I have perused the records and considered the provision of the act. The admitted fact is that the information was furnished to the complainant during the hearing of first appeal. In ordinary course the information is required to be furnished within thirty days. In this case there is a delay. Though the complainant claims that the information is not to his satisfaction such pleadings are redundant as this proceedings being a complaint no order to furnish the information can be ordered in view of the ratio laid down by Hon'ble apex Court in ***Civil Appeal Nos. 10787-10788 of 2011(Chief Information Commissioner and another v/s State of Manipur and another)***.

- 4) The only point to be determined is whether delay in furnishing the information, was deliberate and/or intentional.
- 5) The application for information was dated 28/02/2017 hence the period from 28/02/2017 to 29/03/2017 is crucial for the purpose of this complaint. As per the reply filed by PIO he was transferred to respondent Authority on 03/01/2017 and from

said date election code of conduct was declared. He was designated as returning officer where he worked till 11/03/2017. According to him he was also not informed by his staff as they were all requisitioned for election duty. He commenced the work as registrar only from 26/03/2017. The PIO in his written arguments has also relied upon the several letters and orders appointing him as the returning officer.

- 6) Section 7(1) of the act provides thirty days time to the PIO to decide the application filed u/s 6(1) of the act. Said period of thirty days should be full and clear period of thirty days otherwise if for any official reasons the PIO cannot avail the full period he would be subject to penalty. If the PIO is holding additional responsibilities/charge with other authorities he cannot be expected to decide the application within same time.

Be that as it may, in the present case it is an admitted fact that the information was furnished in the course of first appeal. In other words at the available opportunity the information was furnished. Thus the PIO has proved the bonafides. Section 19(5) of the RTI Act 2005 provides the appellate forum also as a platform to prove bonafides.

- 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 either intentional or deliberate."***

- 8) As discussed above, I find that though the PIO has delayed the information, the delay is explained. I therefore find no malafides on the part of PIO.
- 9) Regarding the relief sought u/s Section 4(1) (a) and 4(1)(b) of the Act , I find force in the grievance of complainant. Had the respondent Authority complied with the said requirements u/s 4(1) (a) and (b), the seeker would have been relieved from seeking information and live at the mercy of the PIO. I therefore find force in the said requirement of the complainant.

Considering the above facts, complaint is partly allowed. The PIO is hereby directed to comply with the requirements of section 4(1) (a) and (b) of the Right to Information Act 2005 in its true spirit and intent. Rest of the prayers are rejected.

Notify the parties.

Pronounced in open proceeding.

Sd/-  
**(Mr. Prashant S. P. Tendolkar)**  
State Chief Information commissioner  
Goa State Information Commission  
Panaji-Goa