

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Penalty 20/2018

In

Appeal No. 49/2018/SIC-I.

Santosh Y. Mandrekar,
H.No. 309, Chinch Bhatwadi,
Mayem, Bicholim, Goa.

....Appellant

V/s

- 1) The Public Information Officer (PIO),
Secretary Village Panchayat ,
Mayem, Bicholim, Goa.
- 2) Block Development Officer (BDO)
First Appellate Authority,
Director of Panchayat, Government of Goa,
Bicholim Goa.

.....Respondents

CORAM: Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 07/05/2018

ORDER

1. This commission Vide order dated 5/4/2018, while disposing the above appeal directed to PIO Shri Mahadev R. Naik to Showcause as to why penal action as contemplated u/s 20(1) of the Right to Information Act, 2005 should not be initiated against him for contravention of section 7(1) of RTI Act, 2005, for not complying the order of the first appellate authority and for delay in furnishing the information .
2. In view of said order passed by this commission on 5/4/2018, the proceedings stood converted into penalty proceedings .
3. In pursuant to the said order showcause notice was issued to PIO on 10/4/2018.
4. The PIO Shri Mahadev R. Naik appeared along with Advocate Shankar Shet and filed his reply on 7/5/2018 to the showcause

notice. Copy of the same could not be furnished to the appellant on account of his absence.

5. Argument were advanced by the Advocate for the Respondent. The respondent vide his reply have admitted that they have not responded u/s 7(1) and not complied with the order of the FAA within the stipulated time as contemplated under the Act. However it is contention of the PIO that he has not responded since the information sought by the appellant was not available on their records. It was further contended that the action taken report of the site inspection was pending as the Panchayat body meeting was not held.
6. Though the PIO has tried to give some justification for the said delay, however, the same does not appear to be probable and convincing. The PIO at initial stage itself should have informed the appellant about the factual position or the status of the said site inspection.
7. The Appellant have been made to run from pillar to post only to get information. Public Authority must introspect that non furnishing of the correct or incomplete information lands the citizen before FAA and also before this Commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.
8. The Hon'ble Bombay High Court Goa bench in writ petition No.304/2011 Johnson V. Fernandes V/s Goa State information commission ; AIR 2012 Bombay 56 has observed , at para 6.

“nothing prevented the petitioner for furnishing the information to Respondent de-hors the appeal. In fact, if the petition is intended to furnish the information to Respondent (information seeker) he could have communicated it without waiting for Respondent No. 2 (appellant) to file an appeal.”

The facts in the said case information was supplied for the first time before the first appellate authority The Hon'ble High Court dismissed the appeal of the PIO by upholding the order of this commission wherein the penalty of Rs. 2000/- was awarded for failure to supply information in accordance with the provisions.

9. Yet in another decision reported in AIR 2013 Calcutta 128 in writ petition (c) No. 18653(w) of 2009 Madhab Kumar Bandhopadaya V/s State information Commission at relevant para 22 has held;-

“ I am unable to accept that once the petitioner complied with the order of the Commission dated January 9,2009, through belatedly, penalty under S. 20(1) of the Right to Information Act, 2005 could not be imposed on him, Nor do I see any reason to accept the argument that in each and every case the Commission is not supposed to impose Rs. 250 penalty per day”.

10. The ratio laid down by above courts are fairly applicable to the facts of the present case. The information came to be furnished to the appellant during the second appeal. There is delay of approximately five months in furnishing the information.
11. Since the PIO failed to show sufficient cause as to why the action should not be taken against him, as such I find that this is fit case for imposing penalty to PIO Shri Mahadev Naik. Nevertheless since there is nothing on records that such lapses on the part of the PIO persistent, a lenient view is taken in the present matter.
12. In the above given circumstances following order is passed

ORDER

- a) The PIO, Shri Mahadev R. Naik is hereby directed to pay a sum of Rupees 3000/- (Rupees Three Thousand only) as penalty for delaying the information .

b) The aforesaid total amount as penalty shall be deducted from the salary of PIO Shri Mahadev R. Naik and the penalty amount shall be credited to the Government Treasury.

Copy of this order be sent to Director of Accounts, Panaji, for information and implementation.

Penalty proceedings dispose off accordingly. Pronounced in open proceedings.

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.

Sd/-

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

Kk/-