

GOA STATE INFORMATION COMMISSION

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

Penalty 13/2018
In
Appeal No.09/2018/SIC-I

Shri Nazareth Barretto,
H.No. 126, Borda,
Margao, Salcete- Goa.

.....Appellant.

V/s.

1. Public Information Officer,
The Village Panchayat Rumdamol-Davorlim,
Margao, Sacete-Goa.

2. First Appellate Authority,
Office of The Block Development Officer,
Salcete, Margao Goa. ,

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 20/04/2018

ORDER

1. This Commission, vide order dated 8/3/2018, while disposing the above appeal, had directed the Respondent no.1 , being then PIO to show cause as to why penalty should not be initiated against him for providing appellant incomplete and incorrect information.
2. In view of the said order passed by this commission, on 8/3/2018 the proceedings stood converted into penalty proceedings.
3. The showcause notice were issued to the then PIO Shri Custodio Faria on 8/3/2018. In pursuant to the said notice Shri Custodio Faria appeared and filed reply on 11/4/3018.
4. Vide above reply the then PIO had contended that since the information is sought not in the form of certified copies of records existing in the Panchayat but in the form of questioners,

he was under the opinion that the same was not falling within the meaning of information as defined under the Right of Information Act. It was further contended that since the appellant was in the possession of the demolition notice as it was issued to him, therefore he did not furnish him again. It was further contended that the copy of resolution remained to be issued due to oversight and inadvertence as no special register is maintained for Communitade structures.

5. In the nutshell it is the contention of the Respondent PIO that there was no malafide intention to supply the incomplete information to the appellant and the said was due to oversight. The Respondent PIO tendered unconditional apology for the lapse on his part and requested to lenient action .
6. I have scrutinize the records available in the files and also considered submission made on behalf of PIO.
7. The Respondent PIO have courageously admitted the fault on his part of not furnishing complete information and has tried to explain the said error on his part.
8. The Delhi High Court writ petition (C)11271/09; in case of Registrar of Companies and Others V/s Dharmendra Kumar Gard and Another's has held that ;

“The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e. where the PIO without reasonable cause refuses to receive the application, or provide the information, or ***knowingly gives incorrect, incomplete or misleading information or destroys*** the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case. **If the CIC starts imposing penalty on the PIO's in every other case, without any justification , it would instill a sense of constant apprehension in those functioning as PIOs**

in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.”

9. Yet in case of Shri A. A. Parulekar V/s Goa State Information Commission and others (Writ Petition No. 205/2007) the Hon’ble High Court of Bombay, Goa bench has observed:

“ 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.”
10. The ratio laid down in above cases is applicable to the facts of the present case as there is no sufficient and convincing evidence on record to show that the Respondent PIO knowingly, intentionally and deliberately given incorrect, incomplete or misleading information.
11. However the PIO should always keep in mind that their services are taken by the Government to help the people of state in particular and people of country at large and the objective and purpose for which the Act came into existence. If the PIO had given prompt and correct information at the initial stage itself, such and harassment and detriment to the appellant could have avoided.
12. As there is nothing on record that such lapses on the part of the respondent PIO is persistent, and by considering unconditional apology tendered by the PIO , a lenient view is taken in the

entire matter as I am of the opinion that PIO should be given a chance to correct himself in future and hence the PIO is hereby directed to be vigilant hence forth while dealing with the RTI matter and lapses if any found in future shall be viewed seriously.

With the above directions Proceedings stands closed.

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.

Pronounced in the open court.

Sd/-

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

Ak/-