

GOA STATE INFORMATION COMMISSION

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

Penalty 06/2018

In

Appeal No.150/SCIC/2013

Dr. Kalpana V. Kamat ,
Caldeira Arcade, 1st floor,
Bhute Bhat, Mestawado,
Vasco –Da-Gama, Goa.

.....Appellant

V/s

1. The Public Information Officer,
Superintendent of Police (South),
Margao Goa.

2. First Appellate Authority,
Dy. Inspector General of Police,
Panaji Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 21/03/2018

ORDER

1. This Commission , vide order dated 22/1/2018, while disposing the above appeal, had directed the Respondent no.1 , being then PIO to show cause as to why penalty and disciplinary proceedings should not be initiated against him for providing appellant incomplete information. Vide said order also the PIO was directed to provide complete and correct information to the appellant as sought by her by an application dated 27/7/2013 within three weeks of the receipt of the order.
2. In view of the said order passed by this commission, on 22/1/2018 the proceedings stood converted into penalty proceedings.
3. The showcause notice were issued to the PIO on 29/1/2018. In pursuant to the said notice Shri Raposa appeared alongwith

advocate Kishore Bhagat and filed reply on behalf of PIO on 21/3/2018.

4. Vide said reply the PIO has contended that compliance report dated 15/9/2017 was filed based on the past records and the three documents were inadvertently not given to the appellant due to oversight on 17/8/2013.

It was further submitted that on 6/9/2017 due to the rusted pipe line the store room of Vasco police station was flooded with water due to which the voluminous record of Vasco police station was damaged, the copy of the station diary of 6/9/2017 was relied upon in support of above contention by the PIO.

It was further submitted that after painstaking efforts, the entire documents were retrieved from the voluminous record from Police station and the required information has been furnished to the appellant on 8/3/18 and on 13/3/18.

5. It was further contended that the order of this commission was received by them on 31/1/2018 and they have furnished the information well within stipulated time of three weeks.
6. It was further contended 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 and requested lenient action.
7. I have scrutinize the records available in the files and also considered submission made on behalf of PIO.
8. The Respondent PIO have courageously admitted the fault on his part of not furnishing complete information and has tried to justify the said error on his part. The extract of station diary of 6/9/2017 also reveals that the record room of Vasco police station was flooded with water due to the leakage of water pipeline

concealed in the walls and that A.E. and J.E. of PWD were called upon to rectify the same . As such the stand taken by the PIO appears to be probable and convincing .

9. If correct and timely information was provided to the appellant the valuable time and hardship caused to her in pursuing the said appeal before different authority would have been saved. 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 .
10. 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.”

11. The ratio laid down in above case is applicable to the facts of the present case as there is nothing on record to show that the Respondent PIO knowingly given incorrect, incomplete or misleading information.
12. There is nothing brought on record by the appellant that such lapses on the part of the respondent PIO is persistent. Considering unconditional apology tendered by the PIO , a lenient view is taken in the entire matter and 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/-