

**GOA STATE INFORMATION COMMISSION**

Kamat Tower, Seventh Floor, Patto Panaji-Goa

Penalty No. 09/2018

In

Appeal No. 217/2017

Rabindra A.L.Dias,  
Dr. Pires Colony, Block "B",  
Cujira, St. Cruz, Tiswadi, Goa.

..... Appellant

**V/s.**

1. Public Information Officer,  
O/O the Village Panchayat of Sernabatim,  
Colva, Gandaulim & Vanelim,  
Colva Salcete, Goa.

2. First Appellate Authority  
O/o the Block Development Officer,  
Mathany Saldana Administrative Complex ,  
Margao Salcete Goa.

..... Respondent

**CORAM:**

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Decided on: 22/3/2018**

**ORDER**

1. This commission Vide order dated 09/2/2018, while disposing the above appeal directed to then PIO Smt. Sandhya Shet Shirodkar to Showcause as to why penal action as contemplated u/s 20(1) and 20(2) of the Right to Information act 2005 should not be initiated against her for contravention of section 7(1) of RTI Act 2005 and for delay in furnishing the information .
2. In view of said order passed by this commission on 09/02/2018, the proceedings should converted into penalty proceedings .
3. In pursuant to the said order showcause notice was issued to then PIO on 14/02/2018 .
4. The Then PIO Smt. Sandhya Shet Shirodkar appeared and filed her reply on 09/03/2018.

5. Vide said reply she contended that documents sought by the appellant was of very old as such the appellant was informed to inspect the documents register/records. It is her further contention that she was waiting for identifying/specifying the documents by appellant. It was her further contention that due to work load of Agricultural census and of delimitation of election roll she was busy and she was unaware of the order of the first appellate authority. She further contended that the information was not furnished due to oversight and not to harass any one and she tendered unconditional apology for the same.
6. It is her contention that the delay was not intentional and deliberate.
7. I gone to the records, the appellant has filed application u/s 6(1) of RTI Act on 16/05/2017. The said application was not responded by the Respondent PIO within time as contemplated under RTI Act. Under section 7(1) of the RTI Act, PIO is required to respond the same on or before 30<sup>th</sup> day. In the present case, it is found that the PIO has not responded to the application of the Appellant with the said stipulated period either by furnishing the said information or rejecting the request. It is also not the case of PIO that the information has been furnished to the Appellant or that he has responded to his application. Though the PIO have claimed that the appellant was directed to carry out the inspection and to identify the documents, the same is not supported by any documentary evidence. The said facts have not been also admitted by the appellant. The records also shows that the order was passed by First appellant authority on 19/7/2017. The then PIO has admitted that she was officiating as PIO when the order was passed by the first appellate authority. Assuming that she was transferred on 28/09/2017, she had two months in her hand to comply with the order of first appellate authority. From the date of filing application

i.e 16/05/2017 till date, the information is not supplied/furnished /provided to the appellant.

8. The PIO has tried to justified the delay. However she has not placed any documentary evidence on record. As such I am not convinced and satisfied with the grounds mentioned by her in her written synopsis/reply to showcause notice.
9. 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.

10. 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 Section 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”.

11. The ratio laid down by above courts are fairly applicable to the facts of the present case. The information till date is not furnished to the appellant.
12. The Appellant have been made to run from pillar to post only to get information. Public Authority and the PIOs 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.
13. It is observed that Respondent No. 1 then PIO have not justified the delay in supplying the complete information to the Appellant and also failed to show sufficient cause as to why action should not be taken against her. As such I find that this is a fit case for imposing penalty to then PIO Smt. Sandhya Shet Shirodkar. However since there is nothing brought on record by the appellant such an lapse on the part of the PIO is persistent, a lenient view is taken in the present matter .
14. In the above given circumstances following order is passed

#### **ORDER**

- a)The then PIO, Smt. Sandhya Shet Shirodkar is hereby directed to pay a sum of Rupees 3000/- (Rupees Three Thousand only)as penalty for not responding the application of the appellant in terms of section 7(1) of RTI Act, for not complying the order of first appellate authority and for delaying the information .
- b)The aforesaid total amount as penalty shall be deducted from the salary of then PIO Smt. Sandhya Shet Shirodkar and the penalty amount shall be credited to the Government Treasury.

Copy of this order be sent to Director of Accounts, Margao, and to Block Development Officer at Margao 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

Ak/-