

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

CORAM: Shri Juino De Souza: State Information Commissioner

**Penalty case No.13/2012 in
Complaint No.136/SIC/2011**

Mr.Vincent Dias,
H.No.503, Murida Fatorda,
Margao –Goa

..... Complainant

v/s

Public Information Officer
Margao Municipal Council,
Margao-Goa.

..... Respondent

Relevant emerging dates:

Date of Hearing : 12-03-2018

Date of Decision : 12-03-2018

O R D E R

1. Brief facts of the case are that this Commission had vide Judgment order dated 03/04/2012 in the above matter directed to issue notice to the Respondent PIO, to show cause u/s 20(1) of the RTI act 2005 as to why penal action should not be taken against the Respondent PIO for causing delay in furnishing the information and the explanation, if any should reach the Commission on or before 04/06/2012.
2. Pursuant to the Notices issued, the matter was listed on board and during the hearing the Respondent former PIO Shri. Prasanna Acharya, presently posted as Director of Mines & Geology appears before the Commission and tenders his explanation. It is submitted that all information was furnished, however the delay of 30 days in furnishing the said information.
3. Shri. Prasanna Acharya explains that the RTI application was dated 20/05/2011 and that information sought was in question form using the word what, whether etc. and which does not fall under the purview of section 2(f) of the RTI act and hence the information was not furnished.

4. It is further explained that subsequently the First Appellate Authority had passed an order dated 22/07/2011, however the information was furnished by the APIO on 20/07/2011 and that there was no deliberate delay nor any malafide intention to intentionally cause delay and the delay that may have been caused is purely inadvertent and unintentional and requests the Commission to take a lenient view and condone the delay.
5. The Commission has carefully gone through the explanation tendered and has perused the records including the detailed written submission 14/12/2017 and finds that although there is a delay of about 30 days, there is however no malafide on the part of the PIO, to intentionally cause delay in furnishing the information. The PIO/APIO is cautioned to be more diligent in future while dealing with RTI applications so that the same are disposed in a time bound manner.

The High Court of Bombay at Goa, Panaji writ Petition No.704 of 2012 has held in para 6 " the question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO".

The High Court of Punjab and Haryana at Chandigarh civil writ petition No.6504 of 2009 has held that the penalty provisions under Section 20 is only to sensitize the public authorities that they should act with all due alacrity and not hold up information which a person seeks to obtain. It is not that every delay that should be visited with penalty. If there is a delay and it is explained, the question will only revolve on whether the explanation is acceptable or not.

The Commission accordingly accepts the explanation and exonerates former PIO from any penalty.

With these observations all proceedings in the penalty case are closed. Pronounced at the conclusion of the hearing. Notify parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner

