

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

**Appeal No. 163/2018/SIC-I**

Shri Narsinha Rathwad @ Kakankar,  
 r/o House No.101/12, Kasarwada,  
 Khorlim,MapusaGoa.

..... Appellant

**V/s**

1)First Appellate Authority,  
 The Superintendent Engineer II,  
 North Panaji,  
 Vidyut Bhavan, panaji.

2)The Public Information Officer,  
 The Assistant Engineer (Tech),  
 Office of Executive Engineer Div-VI,  
 Mapusa Goa.

.....Respondents

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

**Filed on: 06/07/2018**  
**Decided on: 13/08/2018**

**ORDER**

1. The appellant Shri Narsinha Rathwad @ Kakankar has filed the present appeal thereby seeking directions to Respondent No. 2 PIO for furnishing him the information as sought by him and also for invoking penal provisions .
2. The Brief facts of the present appeal are as under;
  - a. The appellant vide his application dated 4/5/2018 has sought information on two point as setout in the said application under the Right To Information Act, 2005 from Respondent No. 2 Public Information Officer (PIO) of the office of Assistant Executive engineer, Electricity Department at Ansabhat, Mapusa-Goa .
  - b. The said application was replied by Respondent No. 2 PIO on 16/5/2018 informing the appellant that APIO had

informed that the office is not maintaining the records as per the Property No. and P.T. Sheet No. and he was requested to submit proper address/copy of Electricity bill of Shri Suddat Korgaonkar in order to furnish the requisite information. The copy of the note sheet of ASPIO was also enclosed to the said reply .

- c. The appellant being not satisfied with such a reply of Respondent No.2 PIO preferred first appeal on 21/5/2018 before Superintendent Engineer, Electricity Department North Goa, Panajim being first appellate authority who is Respondent No. 1 herein.
  - d. The Respondent No. 1 FAA by an order dated 18/6/2018 directed to SPIO to furnish the required information to the appellant at the earliest and PIO was directed to take the help of appellant to identify the location.
  - e. Being not satisfied with the order dated 18/6/2018 passed by Respondent No. 1 FAA and the reasoning given by Respondent No. 1 FAA , the appellant approached this commission on 5/7/2018 on the grounds raised in a memo of appeal.
3. In pursuant to the notice of this commission the appellant appeared in person. Respondent No. 2 PIO Shri Denick F.C. Rodrigues was present. Respondent No. 1 FAA was represented by Shri A.E. Mulla .
  4. Reply filed by both the Respondents on 6/8/2018 alongwith enclosure copy of the same was furnished to the appellant .
  5. Respondent No. 2 PIO submitted that in compliance to the order of FAA the information has been already furnished to the appellant by their letter dated 6/7/2018 which was duly collected by the appellant on 11/7/2018 and the acknowledgment was

made by the appellant on the said letter of having received total 56 pages on 11/7/2018 at 2.30 P.M.

6. The appellant agreed of having received the information on 11/7/2018 after the present appeal was filed and submitted that he had no any grievance with respect to information furnished to him. However he pressed for the penalty on Respondent No. 2 PIO on the ground that there was a delay in furnishing the information. He submitted that the FAA had directed PIO to furnish the required information at the earliest . However it is his contention that Respondent No. 2 PIO with malafide intention delayed in furnishing him information even after the order of FAA.
7. I have considered the submission made on behalf of both the parties and also scrutinized the records available in the file.
8. It is seen from the records that the application is filed by the appellant on 4/5/2018 which was duly replied by PIO on 16/5/2018 within stipulated time as contemplated under section 7 (1) of RTI Act ,2005 wherein it was requested to appellant to submit proper address /copy of the Electricity bill of Shri Sudatt Korgaonkar in order to furnish information . It appears from the records that the appellant have not furnished the said details to the PIO which was sought by the Respondent vide letter dated 16/5/2018. The order was passed by the Respondent No. 1 First appellate authority on 18/6/2018 and in pursuant to which a letter was made by the Respondent PIO on 6/7/2018 to collect the information. There was no specific direction by Respondent No. 1 First appellate authority to provide the information within particular period/days. The records reveals that the bonafides efforts were made by the PIO to comply the order of First appellate authority and the

letter to collect the information was made by PIO within 18 days of the receipt of the order as such I do not agree with the contention of the appellant that there was substantial delay in furnishing or in compliance of the order of First appellate authority .

9. Be that as it may be;

The Hon'ble High Court of Bombay at Goa in writ petition No. 704/12 public authority V/s Yashwant Sawant has held that at para 6;

" The imposition of such penalty is a blot upon the career of the officer at least to some extent, in any case the information ultimately furnished though after some marginal delay in such circumstances , therefore, no penalty ought to have been imposed upon the PIO".

10. Yet in another decision the Honble High court of Bombay at Goa in writ petition No.488/11; Shivanand Salelkar v/s Goa state Information commission has held at para 5

"The delay is not really substantial . The information was applied on 26/10/2009 and therefore the information had to be furnished by 25/11/2009. On 30/11/2009 complainant made his complaint and no sooner the petitioner received the notice of complaint, the petitioner on 15/1/10 actually furnished the information. If all such circumstances considered cumulatively and the law laid down by this court in the case of A A Parulekar (supra) is applied , then it does appear that there was no justification for imposing penalty of Rs 6000/- against the petitioner. "

11. The information was sought on 4/5/2018 and the said was collected by the appellant on 11/7/2018. The PIO has volunteered to furnish the information at initial level itself and there was no denial from his side. It appears that from the

records that since the appellant has not responded to the letter of PIO dated 16/5/2018 and has not provided the clarification to the PIO, as such the PIO was not able to provide him the requisite information. The delay if any was on account of appellant himself in not furnishing the details as was sought by PIO.

12. In view of the ratios laid down by the Hon'ble High Court and in view of above discussion I find that the reply given by the Respondent PIO appears to be probable and convincing as the same is supported by the documentary evidence and as such I am of the opinion that this is not a fit case warranting levy of penalty on the PIO . Hence the relief sought by the appellant which are in penal nature cannot be granted in the facts and the circumstances of the present case.

13. Appeal disposed accordingly. Proceedings stands close.

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