

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

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**Shri Prashant S.P. Tendolkar,**  
State Chief Information Commissioner

**Complaint No.01/2017**

Shri Lindo J. Furtado,  
R/o H. No.51, Copelwaddo,  
Sernabatim, Salcete -Goa.

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Complainant

V/s

- 1) Shri Johnson Bedy Fernandes,  
Public Information Officer,  
O/o the Dy. Collector & SDO,  
Margao - Goa.
- 2) Shri Paresh M. FalDessai,  
Public Information Officer,  
O/o The Mamlatdar of Salcete,  
Margao-Goa.

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Respondents

**Filed on: 27/01/2017**

**Decided on: 10/08/2018**

1) By this complaint the complainant has sought penalty under section 20(2) of the Right to Information Act 2005 as also for inquiry under section 18(2) and 18(3) of the said Act.

2)The Grounds for complaint as pleaded by the Complainant are that vide application, dated 30/08/2010 he has sought information from the Respondent No.1 and 2. As the information was not furnished and the order passed by the First Appellate Authority (FAA) was contrary to his requirements he filed second appeal before the State Information Commission which was disposed on 26/08/2011 directing the PIO's i.e. Respondent No.1 and 2 to furnish the information as sought vide said application, dated 30/08/2010 within 30 days, from the date of receipt of the said order.

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3) It is the contention of the complainant that inspite of the said order of the Commission, no information was furnished to him and hence by a letter dated 14/03/2016 he reminded the office of Mamlatdar regarding the said order of the Commission. It is the contention of complainant that till date he has not been furnished with the information as ordered by the Commission and hence has filed the present complaint under section 18 of the Act.

4) Based on the averments of the complainant, this commission by notice, dated 25/05/2017, directed the PIO to show cause as to why penalty u/s 20(1) and/or 20(2) should not be imposed on him. After notifying the parties the respondent No. 1 filed the reply. According to him the complaint is barred by limitation which is filed after a period of 7 years and that being not the present PIO he does not have access to the record of the earlier office. The respondent No.1. PIO by narrating the sequence of events submitted that as per the order of the Commission the complainant is furnished with the information.

5) In the course of hearing on 03/05/2018 it was submitted by the respondent that the present complaint is arising out of the same application dated 30/08/2010 and the present complaint also pertains to the same application pertaining to which said earlier appeal was filed. According to him the said earlier appeal filed by the complainant and disposed by the commission was bearing no. 33 of 2011. In view of these submission, the file of said appeal No.33/2011 was ordered to be appended to this proceedings. As it was found that said appeal no.33 of 2011 has also resulted in a penalty proceedings No.64 of 2011, said file was also appended.

6) On going through the records of the said appeal No.33/2011 and penalty proceeding No.64 of 2011, it is seen that this Commission while disposing the same on 26/08/2011 has also directed issuance of the notice under section 20(1) of the act against the respondents herein to show cause as to why action should not be taken for causing delay in furnishing information. This has resulted in the said penalty proceeding under section 20 and numbered as Penalty No.64/2011.

7)In the course of the hearing of the present complaint, the complainant submitted that though this complaint pertain to the same application it is not filed for causing delay in responding to the initial application but due to non furnishing of information as was ordered by this Commission in said appeal no.33 of 2011.

8) Considering this submission this Commission scrutinized the proceeding of the said penalty No.64/2011. It is seen at para (8) thereof that in the course of this penalty proceeding NO.64/2011 a complaint was made by the complainant herein contending that no documents or information has been furnished as ordered by this Commission in said appeal No.33 of 2011 and that said complaint was registered as Complaint No.85/SCIC/2012. The said penalty proceeding No 64/2011was finally decided by the order of this Commission, dated 19/08/2014 dismissing the same for want of merits.

9) If one considers the above order it is seen that the issue of alleged non furnishing of the information was dealt with by the commission. The same was also the subject mater in Complaint No.85/SCIC/2012.

10) The Hon'ble High Court of Bombay, Goa bench at Panaji, while dealing with a case of penalty (***Writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others***) has observed:

***"11. 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."***

11) Considering the above ratio, point whether the Respondents are liable for penalty under section 20(1) and/or 20(2) of the act which is already decided in another proceeding filed earlier and the same if considered in this complaint the same would lead to double Jeopardy and would be barred by section 300 of The code of Criminal Procedure.

12) In the above circumstances suffice to hold that the respondents here in having been tried for an offence under section 20 of the act cannot be tried again. Consequently Commission finds that the present complaint cannot be entertained and no reliefs can be granted.

In the result complaint stands dismissed. The show cause notice dated 22/05/2017, stands withdrawn

Proceedings closed.

Notify the parties.

Pronounced in the open proceedings.

Sd/-

**(P. S. P. Tendolkar )**

State Chief Information Commissioner  
Goa State Information Commission  
Panaji - Goa