

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

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Penalty No.20/2018

In

Appeal No. 03/2019/SIC-I

Shri Jawaharlal T. Shetye,  
H.No.35/A,W. No-11,  
Khorlim Mapusa Goa.  
Pincode-403 507

....Appellant

V/s

1) The Public Information Officer,  
Mapusa Municipal Council,  
Mapusa Goa-403507

2) First Appellate Authority,  
Chief Officer,  
Mapusa Municipal Council,  
Mapusa-Goa.

.....Respondents

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

**Decided on: 17/04/2019**

**ORDER**

1. This Commission , vide order dated 2/4/2019 , while disposing the above appeal, had directed the Respondent no.1 , PIO to furnish the information, free of cost to the appellant as sought by him vide his application dated 17/8/2018 within 20 days from the date of the receipt of the order and vide same order had directed to issue Showcause to respondent PIO as to why no action as contemplated u/s 20(1) and /or 20(2) of the RTI Act, 2005 should not be initiated against him/her for contravention of section 7(1), of RTI Act, for not complying the order of first appellate authority and for delay in furnishing the information.
2. In view of the said order passed by this commission, on 2/4/2019 the proceedings stood converted into penalty proceedings.
3. Accordingly showcause notice was issued to the PIO on 5/4/2019. In pursuant to show cause notice , reply was filed by Respondent

PIO on 17/4/2019 and Respondent submitted to consider his reply as his argument .

4. Vide reply dated 17/4/2019, the then PIO Shri Venkatesh Sawant has admitted of having received the application of the appellant dated 17/8/2018 on 20/8/2018. Respondent PIO did not also dispute the order passed by the FAA on 21/11/2018 wherein the directions were issued to him by the first appellate authority for furnishing the information to the appellant, free of cost within 15 days. It is his contention that the part of the information regarding point no. II, IV and V were furnished to the appellant vide letter dated 16/10/2018 along with the documents. The Respondent PIO contended that remaining information furnished to the appellant vide letter dated 29/3/2019 and he enclosed the copy of the said letter dated 29/3/2019 and the documents in support of his said contention. It was further contended that information pertaining to point No. 1 (a) to(d) and III could not be furnished in time due to non submission of information by deemed PIO . It was further contended that there was no willfull intention on his part to cause any monetary loss or delay to furnish the information to the appellant. He prayed for a lenient view.
5. I have scrutinized the records and also considered the reply of respondent PIO.
6. It is seen that as per the records the application dated 17/8/2018 filed by the appellant was received by the office of Respondent No. 1 on 20/8/2018. U/s 7(1) of the Act the PIO is required to respond the same within 30 days. The respondent PIO have not placed on record any documentary evidence of having adhere to section 7 of RTI Act. On the contrary now during the present proceedings have contended that the part information regarding point no. II, IV and V was furnished to the appellant vide letter dated 16/10/2018 along with the documents. However he had not produced any documents in support of his contention. Even if one

assumes and presumed that the information was furnished on 16/10/2018, it needs to mention that only the part information has been furnished pertaining to points II, IV and V and that too not within 30 days period.

7. The respondent No.2 FAA in his order dated 21/11/18 has also observed that PIO has not responded to the application of appellant within 30 days. On perusing the order of FAA it reveals that the PIO and APIO was present during the proceedings and the order was passed in his presence and as such the respondent PIO was aware of the order passed and directions issued to him for furnishing information within 15 days. It is also not the case of PIO that the order of the First appellate authority was challenged by him or has complied the order of first appellate authority. The PIO has also not placed on record any correspondence made by him to the appellant in pursuance to the said order. No reasons whatsoever were conveyed either to the first appellate authority nor to the appellant herein why he could not comply with the said order in time. The respondent PIO has not produced any documents on record of him having complied with the order of respondent No.2 first appellate authority. The contention of the appellant that his RTI application was not responded within 30 days and PIO having failed to comply with the order dated 21/11/2018 have gone undisputed and uncontroverted. The complete information came to be provided to the appellant only on 29/3/2019 vide letter dated EST/RTI/2004/2019 dated 29/3/2019. Such a conduct by PIO is obstructing transparency and accountability and appears to be suspicious and adamant vis-a-vis the intent of the act.
8. Only during the present proceedings the PIO have contended that information regarding I (a) to (d) and III could not be furnished in time due to non submission of information by deemed PIO. However he did not place on record any documents seeking assistance of the Deemed PIO. He has also not placed on record

any cogent evidence showing that the conduct and non cooperation of deemed PIO were reported to his higher authorities. As such the said contention cannot be taken as gospel truth.

9. The reply filed by the respondent PIO does not appear to be probable and convincing as the said is not supported with relevant documents.
10. It is quit oblivious that appellant has suffered mental agony in seeking the said information. If the PIO has given prompt and correct and complete information at the initial level itself or during the intervening period of the first appeal or after the order of first appellate authority, such harassment and detriment could have been avoided
11. The Hon'ble Gujarat High Court in special civil Application No.8376 of 2010 case of Umesh M. Patel V/s State of Gujarat has held at relevant para 8 and 9 .

“Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty.”

12. Yet in another case the Hon'ble Delhi High Court in W.P. (C) 3845/2007; Mujibur Rehman versus central information commission while maintaining the order of commission of imposing penalty on PIO has held;

“Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.”

13. 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.”

14. In the High Court of Punjab and Haryana. In Civil Writ Petition No. 14161 of 2009 Shaheed Kanshi Ram Memorial... V/s State Information Commission .

“As per provisions of the Act, Public Information Officer is supposed to supply correct information, that too, in a time bound manner. Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference”.

15. In the fact and circumstances of present case and in view of the ratios laid down by above courts and also considering the conduct of PIO, I find that the PIO has malafidely and without and reasonable cause persistently failed to furnish the information and failed to show as to how and why the delay in responding the

application and/or not complying the order of First appellate authority was not deliberate and /or no intentional and as such I find this is a fit case for imposing penalty on PIO. Hence the following order is passed

ORDER

1. The Respondent PIO is hereby directed to pay a sum of Rs. 2,000/- as penalty for a contravention of 7(1) of RTI Act, for not complying the order of FAA and for delay in furnishing the information.
2. The penalty amount shall be credited to the Government Treasury.
3. The copy of the order shall be sent to the Director of Accounts, Panaji and to chief Officer of Mapusa Municipality for information and implementation.

With the above directions the above penalty 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

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

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

**Decided on: 17/04/2019**

**CORRIGENDUM**

On going through the order dated 17/04/2019, passed in above mentioned Penalty No. 20/2018 In Appeal No. 03/2019/SIC-I it is found that a typographical error has occurred whereby the number of penalty is wrongly mentioned.

Hence the following Corrigendum is issued. Number of Penalty "Penalty No. 20/2018 In Appeal No. 03/2019/SIC-I" shall be read as "Penalty No. 20/2019 In Appeal No. 03/2019/SIC-I" instead.

Rest contents of the said Order remains the same.

Sd/-

(Ms. Pratima Vernekar)  
State Information Commissioner,  
Goa State Information Commission

Date:- 30/05/2019

Place:- Panaji-Goa