

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

Penalty Case No. 41/2018/CIC

In
Appeal No.97/2019/CIC

Maria Regina Cardozo
19 Revora Cotta,
Chandor Salcete,
Goa. 403714

.....Appellant

V/s

1. Public Information Officer,
Office of Mamlatdar,
Mathany Saldanha Bldg,
Margao-Goa.
2. First Appellate Authority,
Office of the Deputy Collector
Mathany Saldanha Bldg
Margao-Goa.

..... Respondents

Decided on: 30/01/2019

O R D E R

1. The Commission while disposing the above Appeal vide order dated 2/8/2018 had directed to issue notice u/s 20(1)& 20(2) of the Right To Information Act, 2005 (Act) to the Respondent Public Information Officer (PIO) for contravention of section 7(1) of the act and for delay in furnishing the information. Accordingly showcause notice were issued to PIO on 17/09/2018.
2. Pursuant to the said notice, the PIO, Shri Vishal Kundaikar appeared and filed his reply to showcause notice on 11/12/2018 alongwith supporting documents.
3. Oral arguments were advanced by the respondent PIO. The respondent PIO admitted of having received the

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application of the appellant dated 2/1/2018 so also admitted the delay in responding the same. However it is the case of PIO that the same was not intentional. He contended that at the relevant time he was holding the dual posting at two different Taluka i.e at Ponda and Salcete respectively. He further submitted that he was piled up with heavy work in both the above offices since he was officiating as SDM and Collector of Ponda taluka and as a Mamlatdar of Salcete . He further contended that there were elections declared for Ponda constituency and since the election work is time bound, he got completely tide up with all activity concerning elections from February 2018 to 7/5/2018. It was further contended that the APIO of Mamlatdar office of Salcete had not brought this fact to his notice and therefore he was not able to attend the said RTI application .

4. He further contended that he had not received any notice of the first appellate authority and the notice issued by this commission was not brought to his notice by dealing clerk and APIO of the office of Mamlatdar of Salcete. As such it is his contention that he did not get any opportunity to contest before first appellate authority as well as this commission.
5. In the nutshell it is the case of the Respondent PIO due to holding of above charges he completely lost track and due to genuine difficulty she could not reply to the application and he further contended that the delay, if any, in providing information is neither deliberate nor intentional but due the factors mentioned by him .

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6. The Hon'ble High court of Bombay , Goa bench at Panaji in writ petition No.205/2007 ; Shri A A Parulekar v/s Goa State information commission has observed

“The order of penalty for failure to akin action under the criminal law. It is necessary to ensure that the failure to supply information is either intentional or deliberate.”

In the back ground of above ratio is laid down by the Hon'ble High Court, the point arises for my determination is

- a) Whether the delay in furnishing information was deliberate and intentionally?

7. On considering the records and the submissions. In the present case the PIO had justified the reason for not responding or not providing the information within 30 days time. The explanation given by the PIO appears to be convincing and probable as the same was supported by documentary evidence. Section 7(1) of the Act envisages a clear period of 30 days at the disposal of PIO to furnish or to deny information. The records reveals that the Respondent PIO had a charge of public authority, in addition to his regular charge as collector and SDM of Ponda , as such he had no absolute control over the administration of the same as he had to also impart his duties elsewhere simultaneously . It is also one of the ground of PIO that his APIO also did not bring to his notice the application filed by the appellant , considering all those circumstances, I find that the grounds for delay in furnishing information was probable. Such delay cannot be held deliberate or intentional. Hence I am of the opinion that the levy of

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the penalty on PIO is not warranted in the facts of the present case. Consequently showcause notice issued on 17/9/2018 stands withdrawn.

Proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Sd/-
(Shri. P. S.P. Tendolkar)
Chief Information Commissioner
Goa State Information Commission
Panaji -Goa