

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Penalty No.09/2019/CIC

In

Appeal No.217/2018/CIC

Mr. Shrikant Vishnu Gaonkar,
FA-501/FA-505, Sinari Apartments,
Near Datta Mandir, Ribandar Patto,
Ribandar Goa 403006.

..... **Appellant**

V/s

Pradeep A. Mirajkar
The Public Information Officer,
Office of the Commissioner,
Corporation of the City of Panaji,
Panaji Goa 403001.

..... **Respondent**

Date: 15/05/2018

O R D E R

1) This Commission, while deciding the above appeal by order, dated 03/01/2019 has directed Shri Pradeep A. Mirazkar, PIO of Corporation of City of Panaji to show cause as to why penalty should not be imposed on him as contemplated under section 20(1) and/or 20(2) of the Right to Information Act 2005, (Act) for, causing delay in deciding the appellants application u/s 6(1) of the act.

2) Pursuant to the notice issued by the Commission said PIO, Shri Pradeep Mirazkar filed his reply interalia stating that he was appointed as the PIO of CCP Panaji only on 24/02/2018 and was relieved from the said post on 09/07/2018. According to him on joining as a PIO and on getting the application of the appellant under section 6(1) of the Act he replied the same on 03/05/2018 and by another letter dated 11/05/2018. Such responses are within 30 days from the date of his joining as the PIO. It is

Sd/-

...2/-

his further contention that the information at point (4) though was available was not furnished by inadvertence and on pointing out the same by the appellant, it was furnished to him on 18/06/2018.

Thus it according to Shri Mirazkar that there was no malafied intention to deny or to give correct information and prayed for dropping of the present penalty proceeding.

Alongwith the said reply the concerned PIO has filed on record the copy of letter dated 24/4/2018, relieving order dated 09/07/2018 as also the copies of the information as submitted to the appellant.

3) Arguments on the behalf of the PIO were heard. Adv. A. Rodrigues representing PIO submitted that as the notified PIO Shri Mirazkar was acting so only from 24/04/2018 he had no occasion to deal with the appellant's application dated 18/03/2018. According to him the time for responding the same under section 7(1) of the Act has already expired prior to his joining as a PIO. However as a gesture of good will the information as was available was furnished by letters dated 3/05/2018 and 11/05/2018.

In respect of information at point (4) it is his contention that by inadvertence the same has remained to be replied but when it was brought to his notice by the appellant vide averments in first appeal filed to First Appellate Authority of the respondent Authority on 18/06/2018, immediately on the same date information was furnished.

4)The appellant was present, during the hearing though was not mandatory. On inquiry by the Commission he also

Sd/-

...3/-

confirm that during the time when he filed the application for information no person was appointed as PIO. On perusal of the records and considering the pleadings and submission of the PIO, it is seen that the Respondent Authority i.e. the CCP has not appointed any person as its PIO for some time. In this context it is also necessary to note that similar submission were made by several parties earlier before this Commission that the respondent authority had not designated any person as PIO. Taking cognizance of such submissions this Commission has directed the respondent authority to appoint PIOs. The respondent authority has accordingly submitted that they have complied with such directions. Considering this background and the fact that no person was acting as a PIO and though the notified PIO Shri Pradeep Mirazkar has taken the charge subsequently cannot be held as responsible for delay.

5) 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."

6) In the present case as Shri Mirazkar was not the PIO at the relevant time and for a period of 30 days from the date

Sd/-

...4/-

of application received under section 6(1), any delay caused in furnishing information cannot be attributed to him.

Shri Mirazkar thus having shown that there is no deliberate or intentional delay on his part, I find no grounds to invoke my rights under section 20(1) and /or 20(2) of the act. Consequently the present proceeding for penalty cannot proceed.

In the circumstances the notice, dated 28/02/2019 stands withdrawn proceeding closed.

Order be communicated.

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