

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

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**Penalty 22/2019**  
**In Complaint No. 04/2019/SIC-I**

Shri Jawaharlal T. Shetye  
H.N. 35/A, Ward No, 11,,  
Near Sateri Temple, Khorlim,  
Mapusa-Goa  
403 507

....Complainant

V/s

The Public Information Officer (PIO),  
Mapusa Municipal Council,  
Mapusa-Goa  
403507.

.....Respondent

**CORAM:**

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

**Decided on: 13/06/2019**

**ORDER**

1. The penalty proceedings have been initiated against the Respondent under section 20(1) and or 20(2) of RTI Act, 2005 for the contravention of section 7(1) of Right To Information Act, 2005, for not complying the order of First appellate authority (FAA) and delay in furnishing the information.
2. The full details of the case are mentioned in the main order dated 2/05/2019. However, the facts are reiterated in brief in order to appreciate the matter in its proper prospective.
3. A request was made by the complainant on 10/09/2018 for information on 6 points alongwith the copies of the documents. In addition to the specific information, he had also asked for the inspection of the files of the two projects of the Mapusa Municipal Council. As no information was given nor any reply was sent to

Complainant in a statutory period of 30 days. Hence the first appeal was filed by the appellant on 11/10/2018 and the FAA vide order dated 5/12/2018 directed the Respondent PIO to furnish the information to the complainant within 15 days, free of cost.

4. The complainant made the grievance stating that the respondent PIO did not provide him the information with malified intention even though directed by the First appellate authority (FAA). And therefore filed the complaint with this Commission in terms of section 18 of RTI Act, 2005. After hearing both the parties, the Commission vide order dated 2/05/2019 while disposing the Complaint No. 4/2019 came to the prima-facie finding that there was delay in furnishing information and that the respondent PIO did not act deligently while disposing off the request for information under the RTI Act and hence directed to issue showcause notice to the respondent PIO.
5. Inview of the said order dated 2/05/2019 the proceedings stood converted into penalty proceeding.
6. Accordingly showcauese notice was issued to PIO on 6/05/2019. In pursuant to showcause notice then PIO, Shri Vyankatesh Sawant appeared and filed his say on 6/06/2019.
7. Vide his say, he submitted that the RTI application dated 10/09/2018 was marked to deemed PIO and the deemed PIO failed to process RTI application even after order passed by FAA on 5/12/2018. He further submitted that he was holding charge of Municipal Engineer Gr. III, Municipal Engineer grade II and PIO on the date of the application and hence he could not furnish the information to the Complainant due to the overburden of work. He further submitted that the said application has now

been processed and is pending for the signature of the present PIO. Vide reply the PIO prayed to take lenient view in the matter.

8. I have gone through the records available in file and also considered the submission of the Respondent PIO.
9. The Respondent, Public Information Officer (PIO) had admitted in his reply that he was officiating as PIO when the application was filed by the Complainant herein on 10/09/2018 and when the order was passed by the FAA on 5/12/2018 directing him to furnish complete information within 15 days free of cost. He also fairly admits that the application was not responded by him within stipulated time of 30 days as contemplated under RTI Act, 2005. However it is his contention that it was not deliberate and intentional. It is his case that the said RTI application was marked to deemed PIO who failed to process RTI application even after the order was passed by FAA on 5/12/2018. He also further submitted that he had issued memorandum dated 18/09/18 to Shri Shivaji Kamble, LDC and to Shri Rajendra Bagkar, UDC, Engineering section and both didnot furnish him the information. Even assuming for a while the said contention of the Respondent to be genuine, however apart from above two memorandum there is nothing on record to show that second reminder was send to the concerned persons or such an adamant conduct of the persons whose assistant was sought by him was to the notice of his higher-up.
10. The PIO also didnot specified what were the steps taken by him for complying the order of FAA. The PIO has also not placed on record any correspondence made by him in pursuant to the said order to the Complainant. No reason whatsoever conveyed to the first Appellate Authority (FAA) nor to the Complainant why he could not comply the said order in time. The PIO has also not

placed on record any memorandum issued to dealing Clerk after the order of First appellate authority (FAA) seeking his assistance and seeking information from him.

11. Only during the present proceedings the PIO have submitted that the RTI application dated 10/09/2018 have been processed and is pending for the signature of the present PIO and in support of his said contention a copy of the note dated 10/04/2019 was enclosed. The records reveals that the application has been made by the complainant on 10/09/2018 and till date no information have been furnished to him. There is delay of approximately about 9 months in furnishing information.

12. The Hon'ble High Court of Punjab and Haryana. In Civil Writ Petition No. 14161 of 2009 Shaheed Kanshi Ram Memorial... V/s State Information Commission has held;

"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".

13. 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."**

14. 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 that Penalty can be imposed if First Appellate Authority order not complied. The relevant para 8 and 9 is reproduced herein.

"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."

15. Hence according to the ratios laid down in the above judgment the PIO has to provide correct information in a time bound manner as contemplated under the RTI Act. In the present case the PIO has repeatedly failed to provide the information within time frame. Such a conduct and attitude of Respondent PIO appears to be suspicious vis-à-vis the intend of the RTI Act and is not in conformity with the provisions of the RTI Act.

16. The PIO must introspect that non furnishing of the correct or incomplete information lands the citizen before first appellate authority and also before this Commission resulting into unnecessary harassment of the common men which is socially abhorring and legally impermissible.
17. If the correct and timely information was provided to complainant it would have saved valuable time and hardship caused to the complainant herein in pursuing the said appeal before the different authorities. It is quite obvious that complainant has suffered lots of harassment and mental torture in seeking the information under the RTI Act which is denied to him till date. If the PIO has given prompt and correct information such harassment and detriment could have been avoided.
18. Considering the above conduct, I find that PIO has without reasonable cause repeatedly and persistently has failed to furnish information within time. Thus I am convinced and is of the opinion that this is fit case for imposing penalty on PIO. Hence the following order.

#### ORDER

- i. The Respondent No. 1 PIO Shri Vyankatesh Sawant shall pay a amount of Rs.2000/- (Two thousand) as penalty for contravention of section 7(1), for not complying the order of First appellate authority within stipulated time and for delaying in furnishing the information.
- ii. Aforesaid total amount payable as penalty shall be deducted from the salary of PIO and the penalty amount shall be credited to the Government treasury at North Goa.

- iii. Copy of this order should be sent to the Director, Directorate of Municipal Administration, at Panajim and Director of accounts, North Goa Panajim for information and implementation.

Proceedings 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