

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

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

**Appeal No.340/2019/CIC**

Stanley J. Rocque,  
S-5, Estaves Appts,  
Merces, Tiswadi –Goa.

..... Appellant

V/s

The Public Information Officer,  
Institute of Lokayukta,  
1<sup>st</sup> floor, Annex Building,  
Old GMC, Ribandar –Goa.

..... Respondent.

Filed on :29/11/2019

Disposed on:03/02/2020

**1) FACTS IN BRIEF:**

a) The appellant herein by his application, dated 30/5/2019, filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under two parts as contained therein.

b) The said application was replied on 26/6/2019 by the PIO informing that the information pertaining to points a, b, c & d of part I could not be furnished as the same is not available in the office of the respondent authority. In respect of information points a & b of Part II it was informed by the PIO to appellant that the information is voluminous and to pay a sum of Rs.900/- as information fees. However according to appellant the application was not decided in time and that he received the reply only on 02/07/2019 and hence he should get the

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information free of cost. With the above grievance the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

c) The FAA by order, dated 26/8/2019 dismissed the said appeal.

d) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 30/01/2020 filed his reply to the appeal. It is the contention of PIO that as the application for information was not clear, he has sought clarification from the appellant by his letter, dated 03/06/2019 and the same was replied by clarification only on 14/06/2019 and that within thirty days from clarification the application for information was decided.

f) It is the contention of appellant that he had filed his application u/s 6(1) of the act on 30/05/2019 and hence the same should have been decided on or before 30/06/2019. According to him, though the said application is replied on 26/5/2019 the same was received by him on 02/07/2019 and hence there is a delay in deciding the application for information. According to him the letter of PIO seeking clarification was not required as the application itself was clear and the said letter, dated 3/6/2019 was only to create a ground for delay. It is further according to him as his application is not decided within the time of 30 days as required, he is entitled to the information free of cost and he is not liable to pay the said sum of Rs.900/ as demanded. The

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appellant also further submitted that as the reply is delayed the PIO should be penalized and directed to pay the fine.

g) On the other hand it is the contention of PIO that the application of the appellant, dated 30/5/2020 was not clear and hence by his letter, dated 3/6/2019 he has called upon the appellant to attend his office to clarify as to what information he precisely wanted. He further submitted that the appellant has replied the same on 14/6/2019 and thereafter he replied the application of the appellant. According to PIO as he had the bonafide intention to decide the application immediately by giving the available information, he had responded the application immediately that is within 4 days.

h) As the said letters dated 3/6/2019 of the PIO and the reply, dated 14/6/2019 of the appellant were not on record of this proceedings, though admitted by the parties, the appellant was directed to file the copies of the said letters on record for consideration of this commission and accordingly the appellant filed the same on record.

**2. FINDINGS:**

**a)** Perused the records and considered the pleadings. I have also considered the submissions of the parties. Considering the rival contentions of the parties and the offer of the PIO to furnish the information, the sole point to be decided is:

*i) whether the appellant is entitled to have the information free of cost.*

**b)** In the present case the application u/s 6(1) was filed on 30/5/2019. In ordinary course the same was required to be decided within 30 days of the receipt of the same. Considering

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the date of receipt of the application and the date of delivery as contemplated under the act and considering the day of filing the application i.e. 30/5/2019 and the day fixed for decision would fall due on 30/6/2019 after excluding the days of filing and the date of decision. In the present case the application was decided on 26/6/2019.

c) The appellant contends that the said decision was received on 2/7/2019 and hence according to him the PIO has caused delay. Not with standing the other factors as pleaded by the PIO and assuming for a while the above contention as true, there could be delay of about 3days.

d) While considering the case of delay in deciding the application and its effect on the proceedings under the act , Hon'ble High Court of Bombay, Goa bench at Panaji, in **Writ Petition No. 488 of 2011 (Shri Shivanand Salelkar and others V/S The Goa State Information Commission and others)** has observed:

*"5. That apart, in the present case, the delay is really not very substantial. The information was applied on 26.10.2009 and therefore, the same had to be furnished by 25.11.2009. On 30.11.2009 itself the complainant made his complaint and no sooner, the petitioner received the notice of the complainant, the petitioner on 15.1.2010 actually furnished the information. If all such circumstances considered cumulatively and the law laid down by this Court in the case of A. A. Parulekar (supra) is applied, then, it does appears that there was no justification for imposing penalty of Rs.6,000/- upon the petitioner.*

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e) In yet another case before the High Court Of Bombay at Goa in **Writ Petition No.704 of 2012 (Public Authority and others V/S Shri Yeshwant Tolio Sawant** it is observed:

*“5. If the impugned order is perused and if the same is considered along with the materials on record, it does appear that the delay in furnishing the information, in the present case, was not really significant. Respondent No.1 had also addressed the application to the Assistant Engineer and not to the PIO or the APIO. Normally, such infraction on the part of the applicant is no reason for the PIO or the APIO not to furnish the required information within the prescribed period. Mr. Zaveri's contention with regard to the purpose of the Right to Information Act and the necessity on the part of the Officials to supply such information within the time schedule prescribed, no doubt, deserves acceptance. Mr. Zaveri's contentions are undisputedly correct and normally laxity in such matters is required to be visited with penalties, so that there is no friction or lethargy in implementation of the provisions of the Right to Information Act.*

*6. However, in the present case, the learned Chief Information Commissioner has himself noted that the delay was marginal and further the PIO cannot be blamed for the same. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be*

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*accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO.”*

f) Thus considering the ratio as laid down by Hon’ble High Court of Bombay as above, a marginal delay in providing the information is insignificant.

g) Even otherwise, as per the demand of the PIO vide his letter, dated 26/6/2019 the number of pages involved were 450 and the information fees were calculated at Rs.900/-. Thus it is apparent that the information is voluminous running in about 450 pages. Considering the volume of information as sought by the appellant, I find that though the act provides for deciding the application u/s 6(1) within thirty days, the same cannot be applied in blanket to the cases where the information sought is voluminous. I am fortified in this view based on the ratio laid down by the Hon’ble High Court of Punjab & Haryana in the case of ***(Dalbir singh V/S Chief Information Commissioner Haryana & others WP(c) No.18694 of 2011)***.

*“There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner.”*

g) Besides the above there is another factor involved. The application, dated 31/5/2019 was responded on 3/6/2019 seeking clarification. Though it is the contention of appellant that the application was clear and that the letter was only to

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extend time, such a response was not sent by appellant immediately after 3/6/19 and the clarification was offered only on 14/6/2019 Thus the time taken for clarifying the request has also contributed for delay.

h)The act envisages free dissemination of information only in exceptional cases, where the delay is Intentional. I find no ground to hold that the delay caused herein was intentional or deliberate. The information sought was voluminous and cannot be expected to be disseminated within the statutory period. By applying the ratio of the cases of **(Shri Shivanand Salelkar (supra))** as also that in the case of **Dalbir Singh(Supra)**, I am unable to order the dissemination of information free of cost.

i) In the above circumstances I find no merits in the appeal and hence proceed to dispose the above appeal with the following:

### **O R D E R**

The appeal is dismissed. The appellant shall deposit the sum of Rs.900/- towards information fees within 10 days from the date of receipt of this order by him. The PIO shall furnish the information as offered vide his reply, dated 26/5/2019 within 15 days from the date of deposit of such amount by the appellant.

Considering the circumstances of the case the prayer for penalty is rejected.

Order be notified to the parties.

Proceedings stands closed.

Sd/-

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

Chief Information Commissioner  
Goa State Information Commission  
Panaji -Goa

