

# GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

**CORAM: Shri Juino De Souza: State Information Commissioner**

**Penalty Case no. 15/2019 in  
Appeal No: 77/2018/ SIC-II**

Jawaharlal T. Shetye  
H.No. 35/A, Ward No. 11,  
Khorlim, Mapusa,  
Goa – 403 507

**.....Appellant**

**v/s**

1. 1. Public Information Officer,  
Mapusa Municipal Council,  
Mapusa, Goa – 403507
2. First Appellate Authority,  
Chief Officer, (Clen Madeira),  
Mapusa Municipal Council,  
Mapusa, Goa - 403507.

**..... Respondent**

## **Relevant emerging dates:**

Date of Hearing : 03-02-2020

Date of Decision : 03-02-2020

## **O R D E R**

1. Brief facts of the case are that this Commission had vide an order dated 12/03/2019 in the above matter had directed to issue notice to the Respondent PIO, to show cause u/s 20(1) of the RTI act 2005 as to why penal action should not be taken for not furnishing the information timely within the mandated 30 days period and for not complying with the Order dated 03/01/2018 of the First Appellate Authority and the explanation, if any should reach the Commission on or before 15/04/2019 at 11.30 a.m.
2. Pursuant to the Notices issued the Respondent former PIO, Shri Vyankatesh Sawant appears before the Commission and tenders his explanation. The former PIO submits that he was not the PIO at that time when the RTI application was filed on 20/10/2017 and also after the Order was passed by the First Appellate Authority (FAA) dated 03/01/2018. He further submits that the concerned PIO at that point time was one Shri Shivram Vaze who has since retired on superannuation from the Mapusa Municipal Council as Taxation Officer w.e.f. 31/07/2018.

...2

3. The Respondent former PIO Shri. Vyankatesh Sawant files a written declaration confirming the same and also furnishes a copy of the Order bearing no MMC/Admn/5318/2018 dated 31/07/2018 which is taken on record and has prays that his name be dropped from the proceedings.
4. The Commission finds that in view of the declaration made by former PIO Shri. Vyankatesh Sawant that the said concerned former PIO Shri Shivram Vaze has retired from the Mapusa Municipal Council as Taxation Officer w.e.f. 31/07/2018 and which is confirmed from a copy of the retirement order bearing no MMC/Admn/5318/2018 dated 31/07/2018, it is not possible for the Commission to impose any penalty as the same cannot be recovered from the pension.
7. The Supreme Court in Gorakhpur University & Others V/s Dr Shilpa Prasad Nagendra in appeal (civil) 1874 of 1999, Union of India vs. Radha Kissan Agarwalla AIR 1969 SC 762, Union of India vs. Jyoti Chit Fund and Finance & others AIR 1976 SC 1163 and Union of India and another vs. Wing Commander R.R. Hingorani (Retd.) AIR 1987 SC 808 has in its decisions held that pension cannot be attached.
8. Further as per provisions of section 60(1g) of CPC, the pension payable to pensioners are also not liable for attachment in any proceeding, besides section 11 in The Pension Act 1871 exempts pension from attachment.

**The proceedings in the Penalty case are accordingly closed.**

Pronounced in open court before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-  
**(Juino De Souza)**  
**State Information Commissioner**



