

GOA STATE INFORMATION COMMISSION

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

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**Penalty 05/2022
in
Appeal No. 220/2020**

Shri. Santana Piedade Afonso,
H.No. 263, Comba-Central,
P.O. Cuncolim,
Salcete-Goa 403703.

.....Appellant

V/S

1. The Public Information Officer,
Shri. Prabhakar Kamati,
Village Panchayat of Cana-Benaulim,
Benaulim, Salcete-Goa 403715.

2. The First Appellate Authority,
Shri. Amitesh Shirvoikar,
Block Development Officer,
2nd Floor, Mathany Saldanha Complex,
Margao-Goa 403601.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 28/04/2022

Decided on: 21/10/2022

ORDER

1. The Commission vide Order in Appeal No. 220/2020 dated 23/03/2022 had come to the conclusion that, the then Public Information Officer (PIO), Secretary of Village Panchayat Cana-Benaulim Salcete-Goa, Shri. Prabhakar Kamati, had erred in not furnishing the information to the Appellant as per his RTI application dated 29/07/2020 as mandated by the Right to Information Act, 2005 (hereinafter to be referred as Act) within the stipulated period. It has also observed that the then PIO was also failed to comply with the direction of the FAA to furnish the information, which forced the applicant to approach the Commission for seeking information.

2. Pursuant to the order dated 23/03/2022, notice under Section 20(1) and 20(2) of the Act was issued to the Respondent PIO, Shri. Prabhakar Kamati to show cause as to why penal action should not be taken against him for non furnishing complete information within the stipulated time and for causing delay.
3. On receipt of the show cause notice dated 24/03/2022, Adv. A. Bhamaikar appeared on behalf of the then PIO on 28/04/2022 and placed on record the reply of the PIO. Adv. A. Bhamaikar also undertook to file his vakalatanama on or before next date of hearing. However, Adv. A. Bhamaikar failed and neglected to place on record his vakalatanama in the matter, therefore, I cannot accept his appearance as a valid appearance.
4. In spite of valid service of notice, the PIO also did not appear throughout after that for hearings on 10/06/2022, 04/07/2022, 29/07/2022, 22/08/2022, 20/09/2022 and 21/10/2022.
5. The above conduct of the PIO affirms his contention and thus shown lack of concern to the order of the Commission, which is detrimental to the implementation of provisions of the Act.
6. Though the PIO filed his reply on 28/04/2022 and submitted that he has furnished the desired information to the Appellant, except a bare statement nothing is produced on record to presume that in reality he furnished the information.
7. Through his reply he contended that, when RTI application was filed he was occupied with the issue of the garbage segregation, High Court matters, e-gram swaraj website work, administrative works, fortnight meeting etc. However, additional work load and lack of resources cannot be accepted as a defence for denying the information.

8. The High Court of Kerala at Ernakulam in the case **Treesha Irish v/s The Central Public Information Officer and Ors (W.P. (c) No. 6532/2006)** has held as under:-

"25.... The difficulties a public authority may encounter in the matter of supply of information are no grounds to deny the information, if any information is available and not exempted from disclosure. Whatever the difficulties, unless the information is exempt from disclosure, the public authority is bound to disclose the same."

The above legal ratio is also fortified by Hon'ble Supreme Court in the case **Institute of Chartered Accountant of India v/s Shaunak H. Satya and Ors. ((2011) 8 Supreme Court cases 781)** observing that additional workload cannot be a defence to deny the information. The PIO has not been able to provide a satisfactory explanation to the show cause notice, nor did he produce any affidavit to support his contention.

9. The then PIO miserably failed to prove that he has acted reasonably and diligently in the matter. In the entire proceeding the approach of the PIO appears to be casual and trivial. Due to irresponsible attitude and approach of the then PIO, Shri. Prabhakar Kamati, the Appellant was put to unnecessary hardship and was made to run from pillar to post to get the justice and had to waste his time, energy and money.

10. A useful reference needs to be made to the judgement of High Court of Delhi in the case **Mujibur Rehman v/s Central Information Commission (LNIND 2009 Del. 8657):-**

"The Court cannot be unmindful of the circumstances under which the RTI Act was framed, and brought into force. It seeks to foster an 'openness culture' among

state agencies, and a wider Section of 'public authorities' whose actions have a significant or lasting impact on the people and their lives. 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, which 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."

11. The High Court of Kerala in the case **Janilkumar v/s State Information Commission & Ors (LNIND 2012 Ker. 982)**, has held that failure to furnish information is penal under Section 20 of the Act.
12. The High Court of Bombay, Goa bench in the case **Johnson B. Fernandes v/s The Goa State Information Commission & Anr. (2012 (1) ALL MR 186)** has held that, law contemplates supply of information by the PIO to party who seeks it, within the stipulated time, therefore where the information sought was not supplied within 30 days, the imposition of penalty upon the PIO was proper.
13. Considering the ratios laid down by the various High Courts, the Commission is of the view that, it is a fit case for imposing penalty under Section 20(1) of the Act against the then PIO.
14. In view of my above findings and exercise of power granted under Section 20(1) of the Act, I hereby direct the then PIO, Shri. Prabhakar Kamati, presently posted as Secretary of Village Panchayat Raia, Salcete, Goa to pay sum of **Rs. 10,000/-** (Rupees Ten Thousand only) as penalty. The said penalty shall be deducted

from the monthly salary of the PIO. The penalty so deducted from the salary of the PIO shall be credited to the Government accounts. Registry is directed to send a copy of this Order to the Director, Directorate of Panchayat, Panaji-Goa for information and necessary action.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner