

GOA STATE INFORMATION COMMISSION

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

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**Penalty No. 08/2021
in
Appeal No. 158/2020**

Shri. Vishwanath B. Solienkar,
S1, Artic Apartments,
Behind Don Bosco Engineering College,
Fatorda, Margao-Goa 403602.

.....Appellant

V/S

1. The Public Information officer,
Office of the Village Panchayat Raia,
Salcete-Goa.

2. The First Appellate Authority,
Office of the Block Development Officer,
Mathany Saldanha Complex,
Margao-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 20/09/2021

Decided on: 26/10/2022

ORDER

1. While disposing the appeal bearing No. 158/2020 by order dated 06/08/2021, this Commission had come to the conclusion that, the then Public Information Officer (PIO), Secretary of Village Panchayat Raia, Salcete-Goa had erred in non furnishing the information to the Appellant as per his RTI application dated 04/01/2020 as mandated by Right to Information Act, 2005 (hereinafter to be referred as 'Act'). It was also observed that, the then PIO had failed to comply the direction of the FAA, which forced the Appellant to approach the Commission for seeking the information.
2. The Commission also directed the PIO to furnish the information free of cost to the Appellant as per his RTI application dated 04/01/2020 within the period of 15 days from the date of receipt of the order.

Show cause notice under Section 20(1) and 20(2) of the Act was also issued to the PIO, Secretary of Village Panchayat Raia, Salcete-Goa as to why penal action should not be taken against him for non-furnishing the information.

3. Pursuant to the receipt of the show cause notice dated 09/08/2021, the PIO, Shri. Parbhakar Kamati filed his reply through entry registry on 06/09/2021.

Through his reply, the PIO contended that, when the RTI application was inwards he was not the designated PIO of the Village Panchayat Raia, Salcete-Goa and therefore was not involved in the affairs of present RTI matter. He also submitted that even when the FAA has passed the order and direction was issued by order dated 17/03/2020, he was not designated as Secretary/ PIO of V.P. Raia, Salcete-Goa and therefore no liability can be fixed upon him and urged that show cause notice issued against him may be dropped.

4. However, since he did not provide the purported information, a fresh notice was issued to him, accordingly, the PIO Shri. Prabhakar Kamati appeared and reiterated that he was not working as a Secretary at relevant time. Since the Commission is more concerned with providing the information, the Commission directed the PIO to furnish the available information to the Appellant on next date of hearing and matter was posted for compliance on 12/05/2022.
5. During the course of hearing on 12/05/2022, the PIO appeared and furnished bunch of documents to the Appellant. Appellant verified the documents, however, he was not satisfied with the information provided by the PIO, and therefore matter was posted for clarification.

6. In the course of hearing on 08/06/2022, the PIO appeared and submitted that, he has complied with the order of the Commission and furnished all the documents to the Appellant. Since the information provided by the PIO was without proper indexing or dispensed without a proper covering letter, the Commission directed the PIO to make proper indexing of the information provided to the Appellant to obtain the acknowledgment.
7. Since the Appellant and the PIO failed and neglected to appear in the matter for a considerable time and did not shown any interest for hearings viz on 22/08/2022, 16/09/2022, 17/10/2022 and 26/10/2022, the Commission finds no reason to further prolong the proceeding therefore, deems it fit to dispose the penalty proceeding on the basis of material on record.
8. Considering the fact that, the present PIO, Shri. Prabhakar Kamati was not involved in the affairs of the public authority during the time of RTI application dated 04/01/2020 so also when the FAA had passed the direction vide order dated 17/03/2020, the present PIO cannot be held responsible and liable for any penal action.
9. No doubt in this case, the then PIO erred in providing reply in a appropriate manner and also not complied the order of FAA. However, the incumbent PIO cannot be held responsible for the lapse of some other person.
10. The present PIO, upon the direction of the Commission provided the available information free of cost to the Appellant on 12/05/2022 even though it was not indexed properly. Therefore, I do not find any malafide intention of the present PIO for non-furnishing the information.
11. For the purpose of invoking my right of penalty, the criteria as laid down by the High Court of Bombay, Goa Bench at Panaji in

the case **Shri. A. A. Parulekar v/s State Information Commission and Ors. (2010 (1) ALL MR 223)** has under:-

"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."

In the present case, I do not find any malafide intention in the conduct of the PIO and caused delay in furnishing the information to the Appellant.

12. It is contention of the Appellant that, he is not satisfied with the information provided by the PIO. The information to be furnished is the one which and as exist. All information cannot be satisfaction of the seeker.

13. In the light of above fact and circumstances, the show cause notice dated 09/08/2021 issued in the penalty proceeding is dropped.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner