

GOA STATE INFORMATION COMMISSION

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

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**Penalty No. 10/2021
in
Appeal No. 154/2020**

Shri Alex Xavier Arthur,
R/o. Godwin Co-operative Housing Society,
Victor Apt. 1st Floor, Flat No. F-2,
Cujira, Santa-Cruz, Tiswadi Goa.
403005.

.....Appellant

V/S

1. Shri. Rohidas A. Pereira,
The Public Information Officer
Village Panchayat of Santa-Cruz,
Santa-Cruz, Tiswadi - Goa.

2. Prajakta D. Goltekar,
Block Development Officer,
Junta House, 4th Lift, 6th Floor,
Panaji Goa. 403001.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 01/10/2021

Decided on: 22/03/2022

ORDER

1. While disposing the above referred appeal No. 154/2020 by order dated 01/09/2021, this Commission had directed to furnish the information free of cost to the Appellant within the period of 15 days from the date of receipt of the order and also issued notice to the PIO, Shri. Rohidas A. Pereira, Village Panchayat Secretary of Village Panchayat Santa Cruz, Tiswadi-Goa to show cause as to why penalty as contemplated under section 20(1) and/or under section 20(2) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') should not be imposed on him. Accordingly, notice was served to the PIO.
2. The PIO, Shri. Rohidas A. Pereira appeared on 01/10/2021 alongwith his representative Mr. Nazareth D'Souza and submitted

that he has complied with the order of the Commission and furnished all the information to the Appellant by Registered A/D and produced on record the copy of acknowledgement receipt of postal authority to support his claim.

3. The PIO also filed his reply to the show cause notice and submitted that due to the COVID-19 Pandemic, resulting in sudden lockdown there was a delay in furnishing the reply.

The PIO also submitted that his health is not keeping well, and therefore he could not attend the hearing in person and apologise for the same.

4. The PIO also submitted that he has filed parawise reply, explanation and comment to the RTI application on 23/07/2021 and provided all the annexures to the Appellant free of cost.
5. On the other hand, the Appellant has admitted that he has received the reply and documents through Registered post, however he is not satisfied with the information provided to him and alleged that information furnished to him is incomplete, false and having double meaning (twisted words) and claims malafide on the act of PIO and filed his objection on 01/10/2021
6. On next date of hearing on 27/10/2021, the PIO replied to the objection raised by the Appellant. Again during the course of hearing on 08/11/2021, the PIO submitted that he re-constituted the file and obtained the documents and furnished all the documents to the Appellant.
7. On going through the records, the Commission feels that there is no malafide intention of the PIO to deny the information and he has furnished the information as directed by the Commission even by re-constituting the file. He has also shown a reasonable cause for delay in furnishing the information.

8. In the instant penalty proceeding, the PIO has provided all the information which exist and is available. The PIO has replied to both RTI applications with explanation. The PIO cannot further justify or provide the reasons for decision taken by the public authority that is clearly outside the purview of the PIO under the Act. The Commission cannot adjudicate upon the merit or worthiness of the information furnished. The High Court of Bombay, Goa bench case **Dr. Celsa Pinto v/s The Goa State Information Commission (2008 (110) Bom LR 1238)** has held that:-

"In the first place, the Commission ought to have noticed that the Act confers on the citizen the right to information. Information has been defined by [Section 2\(f\)](#) as follows.

[Section 2\(f\)](#) -Information means any material in any form, including records, documents, memos e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

The definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the

domain of adjudicating authorities and cannot properly be classified as information.”

9. In fact in a penalty proceeding, the Complainant has a very limited role to receive the information.

The High Court of Delhi in case **Ankur Mutreja v/s Delhi University (LPA 764/2011)** has held that:-

"10. While in deciding the appeal, the CIC is concerned with the merits of the claim to information, in penalty proceedings the CIC is concerned with the compliance by the Information Officers of the provisions of the Act. A discretion has been vested in this regard with the CIC. The Act does not provide for the CIC to hear the complainant or the appellant in the penalty proceedings, though there is no bar also there against if the CIC so desires. However, the complainant cannot as a matter of right claim audience in the penalty proceedings which are between the CIC and the erring Information Officer. There is no provision in the Act for payment of penalty or any part thereof if imposed, to the complainant. Regulation 21 of the Central Information Commission (Management) Regulations, 2007 though provides for the CIC awarding such costs or compensation as it may deem fit but does not provide for such compensation to be paid out of the penalty if any imposed. The appellant cannot thus urge that it has a right to participate in the penalty proceedings for the said reason either.

11. The penalty proceedings are akin to contempt proceedings, the settled position with respect thereto is that after bringing the facts to the notice of the

Court, it becomes a matter between the Court and the contemnor and the informant or the relator who has brought the factum of contempt having been committed to the notice of the Court does not become a complainant or petitioner in the contempt proceedings. His duty ends with the facts being placed before the Court though the Court may in appropriate cases seek his assistance."

10. In view of above precedent and the remorse as expressed by the PIO, a lenient view is taken being the first case before me. Proceeding dropped. Show cause notice dated 15/09/2021 stands withdrawn. Pronounced in open court. Notify the Parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner