

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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**Penalty No. 09/2022
In
Appeal No. 239/2021/SCIC**

Mr. Kenneth David Fernandes,
E.L. Valley, Block- "A", Flat F-2,
Behind Holy Family School,
Socorro, Bardez-Goa. 403501

--- Appellant

V/s

The Secretary & APIO,
Village Panchayat of Calangute,
Calangute, Bardez-Goa, 403516

--- Respondent

Shri. ARAVIND KUMAR H. NAIR - State Chief Information Commissioner, GSIC

Decided on : 13/01/2025

FACTS IN BRIEF

1. After deciding in the Appeal No. 239/2021/SCIC on 28/04/2022, Show cause notice was served to the Respondent PIO & Secretary Village Panchayat Calangute (Shri. Raghuvir Bagkar) on 29/04/2022 with the direction to the Respondent PIO to file his reply on 17/06/2022.
2. In the reply to the show cause notice, Respondent PIO submitted that :
 - i. Due to the second wave of Covid in the month of April 2021 and it related unpredicted death, Government had issued various guidelines.
 - ii. Village Panchayat being public body for the benefit of general public stated Covid vaccination center and being the Village Panchayat Secretary, he had to supervise the same with the involvement of most of the staff.
 - iii. Due to such unpredicted situations which lasted for 8 months, Appellants RTI application could not be proceeded and could not keep the track on the matter filed before the Appellate Authorities.

- iv. During the last week of December 2021, the staff of Village Panchayat Calangute was assigned on Election Duty and the Respondent was assigned for election duty at Vasco, South Goa.
 - v. Subsequently in the month of March 2022, the Respondent was transferred to Sancoale Village Panchayat in South Goa.
 - vi. Respondent has not acted in the negligent manner but was constrained due to Covid related precaution situation.
3. Upon perusal of the Commission's order dated 28/04/2022, it is found that :
- i. Complainant Kenneth David Fernandes's RTI application dated 09/06/2021 and subsequent reminder dated 10/07/2021 was not responded by the then Respondent PIO Shri. Raghuvir Bagkar.
 - ii. First Appellate Authority's order dated 03/09/2021 directing the then Respondent PIO to furnish information within a period of 15 days, also not complied by the Respondent PIO.
 - iii. In spite of valid service of notice, the Respondent PIO neglected to appear before the Commissioner for hearings on 09/11/2021, 06/12/2021, 27/01/2022, 22/03/2022, 08/04/2022 and 28/04/2022.
 - iv. The record shows that the PIO did not appear before the First Appellate Authority.
 - v. Respondent PIO has miserably failed to respond to RTI application of the Appellant, failed to comply with the order of the First Appellate Authority dated 03/09/2021, and shown complete lack of concern to the process of the Commission.
 - vi. In its order dated 28/04/2022, SCIC pointed out that Hon'ble High Court of Bombay, Goa Bench in case of *Johnson B. Fernandes V/s Goa State Information Commission and Another (2012 (1) ALLMR 186)* held that law contemplates supply of information by the PIO to party, who seek 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.

4. In another identical *Judgement of Janil Kumar v/s State Information Commission and others, The Hon'ble High Court of Kerala* has held that failure to furnish information is penal under section 20 of the RTI Act, 2005.
5. The order dated 28/04/2022 of the Commission contained-
 - i) Direction to the PIO Village Panchayat Calangute to allow inspection of files as sought by the Appellant vide his application dated 09/06/2021 within 10 days of the receipt of the order.
 - ii) The PIO and Secretary, Village Panchayat Calangute Shri. Raghuvir Bagkar to show cause as to why penalty should not be imposed on him in terms of u/s 20(1) and/or recommend disciplinary proceedings against him in terms of section 20(2) of the Act.
6. The penalty matter was heard 20 times from 17/06/2022 to 15/02/2024 and for all hearings, Respondent PIO was represented by Adv. Swati Verlekar.
7. The matter was not heard from March 2024 to September 2024 as the post of SCIC and SIC remained vacant.
8. Subsequently, the matter took up for hearing before the SCIC on 21/10/2024 and the matter heard again on multiple occasions for which Appellant absent and Adv. Swati Verlekar appeared for the Respondent PIO.

DECISION

Based on the order dated 28/04/2022 in Appeal No. 239/2021/SCIC, reply filed by Shri. Raghuvir D. Bagkar (then Respondent PIO and the Village Panchayat Secretary, Calangute) and the facts as well as circumstances of the present Penalty No. 09/2022, Commission decided -

1. To impose on an amount of Rs. 5,000/- (Rupees Five Thousand Only) as penalty on Shri. Raghuvir Bagkar, then Respondent PIO and then Secretary Village Panchayat Calangute and Respondent in the present Penalty No. 09/2022 in terms of Section 20(1) of the RTI Act, 2005 as the Commission could not consider his reply dated 24/06/2022 to the show cause notice dated 29/04/2022 in the Appeal No. 239/2021/SCIC as '*Convincing*' as well as '*Plausible*'.
2. Penalty amount shall be deducted from the salary of Shri. Raghuvir Bagkar in two installments.
3. Since Adv. Swati Verlekar appeared for Respondent PIO/ Secretary Village Panchayat Calangute had submitted before the Presiding Commissioner on 25/10/2023, that Respondent PIO is ready and willing to furnish the information to the Appellant, Commission hereby direct the present PIO/ Village Panchayat Calangute to furnish information, free of cost, to the Appellant as sought vide his RTI application dated 09/06/2021 within 21 days from the receipt of this order and file compliance report within 30 days from the receipt of this order.
 - Matter disposed and proceedings stands closed.
 - Pronounced in Open Court.
 - Notify the parties.

Aggrieved party if any, may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act, 2005.

Sd/-

(ARAVIND KUMAR H. NAIR)

State Chief Information Commissioner, GSIC