

GOA STATE INFORMATION COMMISSION

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

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No.02/2022

In

Appeal No. 118/2021/SIC

Prakash Pandurang Dhoke,
Flat No. 13/336/8, H. No. 366
Ground Floor, Near Karimabad Co.op
Housing Society Gate,
Campal, D.B. Marg, Panaji,
North Goa 403001.

-----Appellant

v/s

1. The First Appellate Authority,
Greater Panaji Planning and Development Authority,
Govt of Goa. Office at NGPDA, 1st Floor,
Archdiocese Building, Mala,
Panaji-Goa 403001.

2) The Public Information Officer,
Greater Panaji Planning and Development Authority,
Govt of Goa. Office at NGPDA, 1st Floor,
Archdiocese Building, Mala,
Panaji-Goa 403001.

-----Respondents

Relevant dates emerging from penalty proceeding:

| | |
|-----------------------------------------|--------------|
| Order passed in Appeal No. 118/2021/SIC | : 28/01/2022 |
| Show cause notice issued to PIO | : 03/02/2022 |
| Beginning of penalty proceeding | : 28/02/2022 |
| Decided on | : 05/09/2022 |

ORDER

1. The penalty proceeding against the respondent Public Information Officer (PIO), Greater Panaji Planning and Development Authority, Govt. of Goa has been initiated vide show cause notice dated 03/02/2022 issued under Section 20 (1) and 20 (2) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') for not providing the inspection of relevant files to the appellant.
2. The Commission has discussed complete details of this case in the order dated 28/01/2022. Nevertheless, the facts are reiterated in brief in order to apprise the matter in its proper perspective.
3. The appellant, vide application dated 11/03/2021 had sought certain information from the PIO. Upon not receiving any reply within the stipulated period, he filed appeal before the First Appellate Authority

(FAA). The appeal was not disposed by the FAA, hence the appellant filed second appeal before the Commission.

4. The Commission, after due proceeding disposed the appeal vide order dated 28/01/2022. It was held that the PIO is guilty on two grounds – (i) not replying the appellant within 30 days from the receipt of the request, and (ii) not providing inspection to the appellant, and that the said conduct of the PIO is punishable under Section 20 of the Act. The Commission, vide the said order directed the PIO to show cause as to why action as contemplated under Section 20 (1) and 20 (2) of the Act should not be initiated against him.
5. The penalty proceeding was initiated against Shri. Sheikh Ali Ahmed, PIO. Pursuant to the notice, PIO and appellant appeared before the Commission. Appellant filed submissions dated 08/02/2022, 25/02/2022, 28/03/2022, 12/04/2022, 22/04/2022, 05/05/2022 and 23/05/2022. Advocate Somnath B. Karpe, Advocate Samiksha Vaigankar, Advocate Abhishek P. Sawant, Advocate Ketan Govekar, Advocate Anand Sandeep Shirodkar and Advocate Gabe D. Mendes appeared on behalf of PIO and filed reply dated 29/03/2022 and 28/05/2022.
6. Appellant stated that, the PIO inspite of various promises did not provide the inspection of relevant records. Later, PIO provided for inspection, however furnished incomplete information. Hence, penalty of Rs. 250/- per day from the date of filing of the application till this date be imposed on the PIO.
7. PIO submitted that, the appellant was informed that the authority has not furnished any permission to any person, pertaining to the subject matter of the application and that appellant is seeking information which is not available in the records. PIO further submitted that, the application of the appellant is vague, furthermore appellant had not sought any specific information. When he was called to give specific details pertaining to the information, appellant refused to comply. The inspection of documents was provided to the appellant and the copy of the applications submitted by Ms. Constantina Estrocio and Mr. Shivnath Raya Chodankar were duly sent to the appellant by registered A.D. Post.
8. Advocate Somnath Karpe while arguing on behalf of the PIO on 26/04/2022, stressed on the nature and content of the application. Advocate Karpe stated that, the application dated 11/03/2021 is not

as per the provision of the Act, information requested in the application is vague, and the application is not in proper order. In spite of these facts, the PIO has taken efforts to furnish the available information, hence this is not a fit case to impose penalty under Section 20 of the Act.

9. Upon perusal of submissions and the arguments it is seen that, the information requested by the appellant is not clear, details required to collect the requested information were not provided by the appellant. The Commission vide order dated 28/01/2022 had held PIO guilty mainly for two reasons – not replying within 30 days and not providing for inspection. It is seen that pursuant to the direction issued by the Commission the PIO has provided for inspection and has furnished copy of the applications submitted by Ms. Constantina Estrochio and Mr. Shivnath Raya Chodankar. PIO has stated that, the authority has not granted any permission/ license to the appellant, hence no more information is required to be furnished.
10. The Commission has heard the arguments of Advocate Somnath Karpe, wherein Advocate Karpe has stressed on the vagueness of the content of the application stating that the penal action is deserved if the application was specific and the information sought was clear.
11. In spite of the fact that the application is not clear, considering that the object of the Act is to provide maximum information to a citizen, the Commission held PIO guilty of not providing for inspection of the relevant files. Now, it has been established that the PIO has already facilitated the inspection and has furnished the copy of application of Ms. Constantina Estrochio and Mr. Shivnath Raya Chodankar. PIO has categorically stated that, his office has not granted any approval, as such the Commission finds that the PIO has complied with direction of the Commission and he has no more information in his records other than the documents already furnished to the appellant.
12. The Commission therefore is of the opinion that, though the PIO was held guilty of not providing the inspection, now it has been established that the PIO has provided for the inspection and has furnished the available information. Hence, no malafide can be attributed to the intention and the action of the PIO.
13. Hon'ble High Court of Bombay at Goa, in writ Petition No. 205/2007, Shri. A. A. Parulekar V/s. Goa State Information Commission, has held that:-

“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”.

14. Subscribing to the ratio laid down by the Hon'ble High Court, as mentioned above, and considering the findings of the Commission in the matter, the present case does not warrant levy of penalty under Section 20 of the Act, on Shri. Sheikh Ali Ahmed, PIO.
15. Thus, the showcause notice issued against Shri. Sheikh Ali Ahmed, PIO stands withdrawn and the penalty proceeding is dropped. The matter is disposed and the proceeding stands closed.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the order should be given to the parties free of cost.

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/-

Sanjay N. Dhavalikar

State Information Commissioner
Goa State Information Commission
Panaji - Goa