

# GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7<sup>th</sup> Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880, 2437908 E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.gsic.goa.gov.in](http://www.gsic.goa.gov.in)

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Penalty 17/2021**  
**in**  
**Appeal No. 24/2020/SIC-II**

Reshma Bhatkar,  
R/o F.No.7,  
Rukmini Residency,  
Near Nayak Building, Baina,  
Vasco-da-Gama, Goa

.....Appellant

**V/s.**

1. Public Information Officer (PIO),  
The Mamlatdar, Mormugao, Vasco Goa.
2. First Appellate Authority (FAA),  
The Dy. Collector /SDO,  
Vasco da Gama-Goa.

....Respondents

**Relevant dates emerging from appeal:**

Order passed in Appeal No. 24/2020	: 22/11/2021
Show cause notice issued to PIO	: 26/11/2021
Beginning of penalty proceeding	: 17/12/2021
Decided on	: 13/01/2022

## **ORDER**

- 1) The penalty proceeding against the respondent Public Information Officer (PIO) has been initiated vide showcause notice dated 26/11/2021 issued under section 20(1) and /or section 20(2) of the Right to Information Act, 2005 (for short, the Act) and also under section 19(8)(b) of the Act.
- 2) The Commission has discussed complete details of this case in the order dated 22/11/2021 passed in the second appeal referred in the title above. The said order held that the PIO failed to communicate to appellant regarding weeding out

procedures of records and his incomplete reply compelled appellant to file further appeals under the impression that the information sought is available and she will get it. The Commission concluded that the then PIO is required to take the responsibility of providing incomplete reply to the appellant and causing agony and monetary loss to her. The Commission vide the said order directed the PIO to showcause to as to why action as contemplated under section 20(1) and or 20(2) of the Act should not be initiated against him and also directed him to showcause as to why the PIO should not be asked to pay compensation under section 19(8)(b) of the Act.

- 3) The penalty proceeding was initiated against Shri. Satish Prabhu, the then PIO and Mamlatdar of Mormugao Taluka. During the hearing on 17/12/2021, Shri. Vithu Kharat, Circle Inspector, Office of the Mamlatdar appeared under authority letter on behalf of Shri. Raghuraj A. Faldesai, the present Mamlatdar and the PIO. Shri. Kharat filed a submission on behalf of Shri. Raghuraj A. Faldesai, wherein Shri. Faldesai, present PIO stated that Shri. Satish Prabhu has retired on super annuation w.e.f. 01/03/2021. Shri. Kharat also furnished copy of order dated 22/02/2021 issued by Shri. Vishal C. Kundaikar, Under Secretary, Personnel-I pertaining to the superannuation of Shri. Satish Prabhu and posting of another officer in his place.
- 4) The Commission has held Shri. Satish Prabhu, the then PIO, guilty of providing incomplete reply and causing the appellant agony and monetary loss. Such action is punishable under section 20(1) and 20(2) of the Act. Also the then PIO is liable to pay compensation to the appellant

for causing her agony and monetary loss. Such a penalty which is levied in terms of money, being personal in nature, is recoverable from the salary payable to such employee during his service.

5) However, the then PIO has retired and section 11 of the Pension Act, 1871, grants immunity to the pension holder against its attachment in following words:-

“Exemption of pension from attachment: No pension granted or continued by Government or political consideration, or on account of past service or present infirmities or as a compassionate allowance and no money due or to become due on account of any such pension or allowance shall be liable to seizure, attachment or sequestration by process of any court at the instance of a creditor, for any demand against the pensioner or in satisfaction of a decree or order of any such court.”

6) Section 60(1) (g) of Civil Procedure Code also bars attachment of pensioner in following words:-

“ Section 60(1): The following particulars shall not be liable to such attachments or sale namely:

(g) stipends and gratuities allowed to pensioners of the Government or of a local authority or any other employer, or payable out of any service family pension fund notified in the gazette, by the Central Government or the State Government in this behalf and political pension.”

7) In a similar matter, the Hon’ble Supreme Court in the case of Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra (Appeal Civil 1874 of 1999) has held that:-

*“ This court has been repeatedly emphasising the position that pension and gratuity are no longer matters of any bounty to be distributed by the Government but are valuable rights acquired and property in their hands.....”*

The ratio laid down in the above-mentioned judgement makes it clear that no amount/part amount from the retirement benefits like pension and gratuity can be recovered from the retired employee in the form of penalty or compensation.

8) In the present case, Shri. Satish Prabhu has retired from service on superannuation. This being the case, his retirement benefits are beyond the scope of attachment. Similarly, recommendation of disciplinary action under section 20(2) of the Act can be issued during the period of service, and not after retirement.

9) Under these circumstances, the Commission does not have jurisdiction to order any deduction from pension or gratuity of the then PIO after his retirement, as penalty or compensation. Hence the penalty proceeding against the then PIO is dropped, the matter is disposed and proceeding stands closed.

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