

GOA STATE INFORMATION COMMISSION

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

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website: www.gsic.goa.gov.in

Appeal No. 275/2023/SCIC

Sushant P. Nagvenkar,
H.No. C-312, Fonduvem,
Ribandar-Goa.

.....Appellant

V/S

1. Shrikant B. Pednekar,
The Public Information Officer,
Office of the Commissioner of Excise,
Panaji-Goa.

2. The First Appellate Authority,
Office of the Commissioner of Excise,
Panaji-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 10/08/2023

Decided on: 03/11/2023

ORDER

1. The Appellant, Shri. Sushant P. Nagvenkar, r/o. H.No. C-312, Fonduvem, Ribandar-Goa by his application dated 31/03/2023 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Office of the Commissioner of Excise, Panaji-Goa.
2. Since the said application was not responded by the PIO within the stipulated time, deeming the same as refusal, the Appellant filed first appeal before the Commissioner of Excise, Altinho, Panaji-Goa on 12/05/2023, being the First Appellate Authority (FAA).
3. The FAA by its order dated 14/06/2023 allowed the first appeal and directed the PIO to provide the information/ inspection to the Appellant free of cost, within 10 days from the date of the order.

4. Since the PIO failed and neglected to comply with the order of the FAA dated 14/06/2023, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act, with the prayer to direct the PIO to provide the inspection and certified copies of the documents and to initiate penal action against the PIO for lack of diligence in performing his statutory duties.
5. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 09/10/2023, the PIO, Shri. Shrikant Pednekar appeared and filed his reply on 09/10/2023 and submitted that he is ready and willing to provide the inspection of the records. Accordingly, with the consent of both the parties the Commission fixed a joint inspection of the records on 27/10/2023 between 10:30 am to 11:30 am in the office of the PIO at Panaji-Goa and matter was posted for compliance on 30/10/2023.
6. In the course of hearing on 30/10/2023 the Appellant appeared and submitted that, as per the direction of the Commission joint inspection was held on 27/10/2023 in the office of the PIO at Altinho, Panaji-Goa, and the information which was identified by the Appellant during the inspection has been furnished to him on the same day. The Appellant also submitted that he received the purported information, however, noted his displeasure for the conduct of the PIO and submitted that due to the casual and irresponsible approach of the PIO, he was put to unnecessary hardship and was made to run from pillars to post to get the information.
7. Having gone through the entire material on record, it is revealed that, on very first date of hearing, the PIO offered the inspection and willingness to provide the information. True it is that there is

delay in providing the inspection/ information. However, upon the direction of the Commission, the PIO has promptly provided the inspection and information to the satisfaction of the Appellant. Delay caused in providing the information is marginal delay.

8. The High Court of Punjab in the case **State of Punjab & Ors. v/s State Information Commissioner & Ors. (LNIND 2010 PNH 2809)** has observed as under:-

"The delay was not inordinate and there was no contumacious misconduct on the part of the officer to supply to the petitioner the information. The penalty provisions under Section 20 of the RTI Act are only to sensitize the public authorities that they should with all due alacrity and not hold up the information which a person seek to obtain. It is not every delay that should be visited with penalty."

9. In another judgement the Hon'ble High Court of Bombay at Goa Bench in the case **Shri. A.A. Parulekar v/s Goa State Information Commission & Ors. (W.P. No. 205/2007)** has observed:-

"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."

10. Considering the facts and circumstances hereinabove and since all the available information has been furnished free of cost to the Appellant by the PIO, I am not inclined to impose penalty on the PIO as prayed by the Appellant. However, parting with the matter, I would like to note that, RTI Act cannot be allowed to stand on the foundation of irresponsibility and negligence, therefore, I warn the PIO, Shri. Shrikant Pednekar that he shall be

diligent henceforth in dealing with the RTI applications with priority, with this observation the matter is disposed off.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner