

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No. 33/2023/SCIC

Mr. Sakharam Pandurang Pednekar,
R/o. House No. 99/1, Bhatwadi,
Latambarcem, Bicholim-Goa.

.....Appellant

V/S

1. The Public Information Officer (PIO),
Village Panchayat Secretary,
Village Panchayat Latambarcem,
Bicholim-Goa 403503.

2. The First Appellate Authority,
Block Development Officer,
Block Development Office Bicholim,
Bicholim-Goa 403504.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 18/01/2023

Decided on: 16/08/2023

FACTS IN BRIEF

1. The Appellant, Mr. Sakharam Pandurang Pednekar r/o. H.No. 99/1, Bhatwadi, Latambarcem, Bicholim-Goa vide his application dated 13/09/2022 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), Village Panchayat Latambarcem, Kasarpal, Bicholim-Goa:-

"Please provide me below information and certified documents.

1) Kindly furnished certified documents of house tax number issued by VP Latambarcem to Latambarcesm village from 01/01/1990 to 31/12/1999.

2) Kindly furnished Form 8 and Form 7 from 01/01/1990 to 31/12/1999."

2. Since the said application was not responded by the PIO within stipulated time, deeming the same as refusal, the Appellant filed

first appeal before the Block Development Officer, Bicholim Block, Bicholim-Goa on 17/10/2022, being the First Appellate Authority (FAA).

3. The FAA vide its order dated 30/11/2022 allowed the first appeal and directed the PIO to furnish the available information to the Appellant free of cost, within 10 days.
4. Since the PIO failed and neglected to comply with the order of the FAA dated 30/11/2022, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information and to impose penalty on the PIO for causing delay in furnishing the information.
5. Notices were served upon the parties, pursuant to which the Appellant appeared in person on 08/03/2023, the FAA, Shrikant Pednekar appeared on 08/03/2023 and submitted that he has already disposed the first appeal. The PIO, Sanjay Parab appeared on 08/03/2023 and submitted that he is ready and willing to furnish the information to the Appellant. Accordingly the Commission directed the PIO to appear alongwith the information on next date of hearing and matter was posted for compliance on 06/04/2023.
6. In the course of hearing on 06/04/2023, the PIO appeared with voluminous material and furnished the said information to the Appellant. However since the information provided to him was not properly certified by the PIO, the Appellant refused to accept the said information. To secure ends of justice and to resolve the matter, the Commission directed the PIO to furnish the information with proper certification and the matter was posted for further compliance.
7. During the course of hearing on 05/07/2023, the PIO appeared and placed on record the voluminous material and submitted that he

produces on record the purported information, free of cost with proper certification. Off late the Appellant appeared and collected the information from the court file on the same day and matter was posted for clarification on 28/07/2023.

8. On 28/07/2023, in the course of argument, the Appellant Shri. Sakharam Pednekar appeared and submitted that, he is satisfied with the information provided by the PIO, however, he stressed upon to impose penalty on the PIO for not responding to his RTI application in time bound manner and for causing delay in furnishing the information, and also prayed for awarding compensation.
9. Therefore, a question that arises for consideration of the Commission is whether the delay caused in furnishing the information was deliberate and/ or intentional which warrants for imposition of penalty on the PIO.
10. True it is that, the PIO did not reply to the RTI application within stipulated time. However, it is a matter of fact that the information sought by the Appellant is the certified copy of the house tax number data from 01/01/1990 to 31/12/1999 and copy of form No. 8 and 7 maintained by the public authority since 01/01/1990 to 31/12/1999, which is bulky and voluminous and running in to hundreds of pages which is time consuming and certainly would disproportionately divert the resources of the public authority. Keeping in view the amplitude of the queries sought by the Appellant the delay in providing the information is probable and possible and cannot be solely attributable to the PIO.
11. It is also pertinent to note that, from the very first date of the hearing before the Commission, the PIO was ready and willing to

furnish the information. Therefore, there is no iota of doubt to infer that the PIO was unwilling to provide the information. It is also a matter of fact that, the Appellant has filed multiple RTI applications thereby hampering the administrative work of the public authority. Tendency to file a large number of RTI applications on similar issue end up clogging the RTI system, without adding any value in terms of transparency and accountability.

12. No doubt, there is a delay in furnishing the information, however same is marginal delay. The High Court of Bombay, Goa Bench at Panaji in the case **Public Authority Officer of Chief Engineer, Panaji v/s Shri. Yeshwant Tolio Sawant (W.P. No. 704/2012)** while considering the scope of imposing penalty has observed as under:-

"6. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."

13. 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."

14. 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."

15. During the course of arguments, the Appellant also stressed upon to award compensation for causing hardship and loss to him, however, neither in the first appeal nor in this second appeal, the Appellant has prayed for awarding compensation. The Commission therefore is not inclined to grant such relief in absence of any specific pleading.

16. Considering the facts and circumstances hereinabove and since all the available information has been furnished 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 find it appropriate to warn the PIO, Sanjay Parab that he shall be diligent henceforth, in dealing with the RTI applications with priority and with the above observation, the matter is disposed off.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner