

**GOA STATE INFORMATION COMMISSION**  
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**Appeal No. 65/2022/SCIC**

Shri. Prakash Deena Naik,  
R/o. Panelim, Sao Pedro,  
Old Goa 403402.

.....Appellant

V/S

1. The Public Information Officer,  
The Secretary,  
Village Panchayat Se Old Goa,  
Old Goa, Tiswadi-Goa 403402.

2. The Block Development Officer,  
The First Appellate Authority,  
Tiswadi Taluka,  
Panaji-Goa 403001.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 22/02/2022**

**Decided on: 27/01/2023**

**FACTS IN BRIEF**

1. The Appellant, Shri. Parkash Deena Naik r/o. Panelim, Sao Pedro, Old Goa by his application dated 22/01/2021 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Secretary Village Panchayat Se-Old Goa, Tiswadi-Goa.
2. As 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 on 03/03/2021 being the First Appellate Authority (FAA).
3. During the pendency of the first appeal, the PIO dispatched the information to the Appellant on 04/03/2021 by Registered A/D postal service on the available address to the Appellant.
4. Meanwhile the FAA by its order dated 30/11/2021 partially allowed the first appeal and directed the PIO to allow the inspection of

records and provide the information to the Appellant free of cost, within the period of 10 days.

5. Feeling aggrieved and dissatisfied with the order of the FAA, the Appellant landed before the Commission with this second appeal under Section 19(3) of the Act, with the prayer to impose the penalty on the PIO as per Section 20 of the Act.
6. Notices were issued to the parties, pursuant to which, Adv. Sonali Nagvekar appeared and filed reply on behalf of the PIO on 06/05/2022, Adv. D.L. Pusekar appearing for Appellant filed written arguments on 15/12/2022. The FAA duly served opted not to appear in the matter.
7. I have perused the content of appeal memo, reply, scrutinised the material on record and considered the written and oral submissions and judgement relied upon by the parties.
8. According to the Appellant, as he has filed an application under Section 6(1) of the Act on 22/01/2021, it was bounden duty of the PIO to furnish the information within statutory period of 30 days, however, the PIO has miserably failed and neglected to respond the RTI application thus violated the provision of RTI Act.
9. On the other hand, Adv. S. Nagvekar submitted that by letter No. VP/SOG/TIS/2020-2021/1226 dated 19/02/2021 the PIO dispatched the information through the Registered A/D dated 04/03/2021 on the registered address provided by the Appellant, however, the said Registered A/D alongwith the information has been returned back undelivered with the remark of postal authority "Not known, Return to Sender".

Further according to the Adv. S. Nagvekar, the PIO tried to contact the Appellant several times as the information sought by the Appellant was ready with the PIO, however, he could not

provide the information to the Appellant due to the incomplete address and non-providing of the contact details.

Further, the advocate for the PIO contended that, ultimately all the available information has been furnished to the Appellant personally before the first appeal proceeding on 26/03/2021. She also submitted that the delay caused in providing the information was due to COVID-19 Pandemic outbreak and to support her case she produced on record the judgement of Hon'ble Supreme Court dated 10/01/2022 in **Suo Motu Writ Petition (c) No. 3 of 2020 in Misc. Application No. 21/2022.**

10. It is admitted fact that, the Appellant has received the information, however the Appellant is pressing for imposition of penalty on the PIO for causing delay in furnishing the information.
11. A perusal of record manifest that the application under Section 6(1) of the Act was filed on 22/01/2021, the information was therefore required to be furnished or rejected on or before 22/02/2021 being the 30<sup>th</sup> day, however, record reveals that the information sought by the Appellant was kept ready by the PIO on 19/02/2021, but dispatched the information through Registered A/D to the Appellant on 04/03/2021 i.e on 40<sup>th</sup> Day. The delay in the present case in furnishing the reply / information is of 10 days.
12. It is also the matter of fact that the information which was dispatched through postal authority has been returned unserved with the postal endorsement "Not known, Return to Sender." This clearly indicates that the address provided by the Appellant while seeking the information was incomplete or without providing any contact details. If the Appellant really wished to receive the information, it is in his own interest that he shows due diligence to provide the correct and detailed address or atleast the contact details. In this case the PIO cannot be held responsible for the lapse or the delay caused in furnishing the information.

13. I have perused the judgement relied upon by Adv. S. Nagvekar in the case **Suo Motu Writ Petition (c) No. 3 of 2020 in Misc. Application No. 21/2022 (Supra)**. In the said order the Hon'ble Supreme Court has held as under:-

*"1. In March, 2020, this Court took Suo Motu cognizance of the difficulties that might be faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other quasi proceedings within the period of limitation prescribed under the general law limitation or under any special laws (both Central and / or State) due to the outbreak of the COVID-19 Pandemic.*

*5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:*

*i. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings. "*

From the above, it is clear that the Hon'ble Apex Court condoned the limitation period for all the proceedings due to Pandemic driven situation.

14. Apart from that, the delay caused is marginal and the same has been reasonably explained by the PIO. The High Court of

Bombay, Goa Bench at Panaji in **Public Authority, Office of Chief Engineer, Panaji v/s Shri. Yeshwant Tolio Sawant (W.P. No. 704/2012)** while considering the scope for 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 penalty is a blot upon the career of the Officer, at least to some extent. In any case the information was 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."*

15. Similarly in a recent judgement the High Court of Karnataka in the case **Sri. Ambadi Madhav v/s The Karnataka Information Commission & Ors. (2022 (4) ALL MR (JOURNAL) 48)** has held that:-

*"8. Having perused the material on record and after consideration of the submission made by the parties, it is not disputed that the information sought for by the petitioner has been furnished. Even if there has been some delay in furnishing the information, it is clear from the perusal of the material available on record that the reasons have been afforded by the petitioner for delay and said reasons are genuine and bonafide. It is also forthcoming that the delay is not deliberate in the hands of the petitioner and there is no malafide intent by the petitioner to withhold the information*

*sought for by the Respondent. Under the circumstances the order passed by the Respondent No. 1, imposing a fine is liable to be quashed.....”*

16. In the above circumstances and considering the contributory lapse on the part of the Appellant for not providing complete address or contact details while seeking the information. In my opinion there is no indication of malafide denial of information by the PIO. Hence, applying the equitable relief, I am refraining from imposing penalty on the PIO. Accordingly the appeal is dismissed.

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

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner