

**GOA STATE INFORMATION COMMISSION**

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

**Appeal No. 184/2023/SIC**

Shri. Nazareth Baretto,  
H. No. 126, Borda,  
Margao, Salcete-Goa.

-----Appellant

**v/s**

The Public Information Officer,  
Office of the Administrator of Comunidades  
South Zone, Margao, Salcete-Goa.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 22/12/2022
PIO replied on	: 31/01/2023
First appeal filed on	: 07/02/2023
First Appellate Authority order passed on	: 20/02/2023
Second appeal received on	: 26/05/2023
Decided on	: 28/08/2023

**ORDER**

1. The brief facts of this second appeal as contented by the appellant are that, the appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), had sought information on seven points and Respondent Public Information Officer (PIO) furnished only part information. Being aggrieved, the appellant preferred first appeal which was disposed by the First Appellate Authority (FAA) by directing the PIO to furnish the remaining information. It is contention of the appellant that PIO did not comply with the said order, thus, he was compelled to appear before the Commission.
2. Pursuant to the notice, appellant appeared in person and prayed for the remaining information and penal action against the PIO as well as award of compensation to him. Shri. Joao B. Fernandes, PIO and Administrator of Comunidades of South Zone, Margao neither appeared nor filed any reply on his behalf.
3. Appellant stated that, the PIO first of all did furnish incomplete information, information was provided only on point no. 1, 2, 5 and 6 and no information was submitted on point no. 3, 4 and 7. The said act of the PIO of furnishing wrong and incomplete information is deliberate and intentional attempt only to evade disclosure of correct

information. Therefore, he prays for direction to the PIO to provide complete information and imposition of penalty against the PIO.

4. Upon perusal it is seen that, the appellant Shri. Nazareth Baretto, resident of Borda-Margao had sought information on seven points. As the request is clear and specific, the said information is required to be available in the records of the PIO. Also, it appears that the said information is not exempted from disclosure as provided under Section 8 (1) nor rejected under Section 9 of the Act. Thus, the PIO under Section 7 (1) of the Act was required to furnish complete information to the appellant.
5. PIO vide reply dated 31/01/2023 requested the appellant to pay Rs. 28/- and collect the information on point no. 1, 2, 5 and 6 and that the information on point no. 3, 4 and 7 is not available. Accordingly, the appellant collected the part information, however, was aggrieved by the action of the PIO of furnishing incomplete information.
6. Importantly the FAA, Additional Collector-I, South Goa, Margao has observed in his judgement that, "The information sought by the appellant pertains to one specific file i.e. case No. 1/17/Davorlim/2016-17/761 belonging to the office of the respondent PIO". The FAA further directed the PIO to provide the inspection of the said file and furnish certified copies of the documents identified by the appellant, pertaining to point no. 3, 4 and 7, latest by 28/02/2023.
7. More importantly, the Commission notes that the PIO has not acted to ensure compliance of the direction of the FAA. Even more seriously, the said PIO neither attended the present proceeding nor filed any say justifying his action. Section 19 (5) puts the onus on the PIO to prove as to why correct and complete information was not furnished to the appellant. Notice dated 07/06/2023 issued by the Commission was delivered by the Post Office to the office of the PIO on 12/06/2023. Hearings were scheduled on 04/07/2023, 25/07/2023, 09/08/2023 and 28/08/2023, yet PIO showed no presence.
8. The Right to Information Act, 2005 is a beneficial Act which has been enacted by the Parliament to bring practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of public authority. However, the PIO in

the present matter has acted completely against the provisions and the spirit of the Act.

9. This laid back attitude of the PIO amounts to nothing but arrogant conduct with least respect to the provisions of the Act and the appellate authorities under the Act. Such a negative attitude and arrogance deserves to be punished under Section 20 of the Act. Despite the penal action, the PIO cannot be absolved of his responsibility of furnishing point-wise, correct and complete information.
10. The Honorable High Court of Himachal Pradesh in LPA No.4009 of 2013, Sanjay Bhagwati V/s Ved Prakash and ors decided on 05/11/2009 has held in para 16:-

*"16. Bearing in mind the laudable object of the Act mere inaction or laid back attitude on behalf of the appellant cannot exonerate him of his culpability because higher is the post, not only more but greater are the responsibilities. Even after being put to notice by the petitioner that the information supplied to him is incorrect, yet the appellant took no steps whatsoever to ensure that the true, correct and not incorrect, incomplete or misleading information is supplied to Respondent no. 1. (Information seeker). If a person refuses to act, then his intention is absolutely clear and is a sufficient indicator of his lack of bonafides. After all malafide is nothing sort of lack of bonafides or good faith."*
11. In another matter, the Honorable High Court of Gujarat in Special Civil application no. 8376 of 2010 in the case of Umesh M. Patel V/s State of Gujarat has held that penalty can be imposed on PIO, if, First Appellate Authority's order is not complied. In yet another matter the Honorable High Court of Bombay at Goa Bench in Writ Petition no. 304/2011, Johnson V. Fernandes V/s Goa State Information Commission, has dismissed the appeal of the PIO by upholding the order of the Commission, imposing penalty for his failure to supply information within the stipulated period.
12. In the background of the facts and findings of the instant matter and subscribing to the ratio laid down by the Hon'ble High Court as mentioned above, the Commission finds that the PIO has failed to furnish the information sought by the appellant. The said failure amounts to contravention of Section 7 (1) of the Act and the same is liable for penal action under Section 20 of the Act. Further, the

Commission with all seriousness notes that the PIO neglected to attend the proceeding nor deputed any representative or filed any say justifying his/ her action. Thus, the PIO needs to be admonished for his/ her arrogant and irresponsible conduct of showing scant respect to the Authorities.

13. In the light of above discussion the present appeal is disposed with the following order:-
- a) PIO is directed to furnish information sought by the appellant vide application dated 22/12/2023, within 15 days from the receipt of this order, free of cost.
  - b) Issue show cause notice to Shri. Joao B. Fernandes, PIO, Administrator of Comunidades, South Zone, Margao and the PIO is further directed to show cause as to why penalty as provided under Section 20 (1) and /or 20 (2) of the Act, should not be imposed against him.
  - c) Shri. Joao B. Fernandes, PIO is hereby directed to remain present before the Commission on **25/09/2023 at 10.30 a.m.** alongwith the reply to the showcause notice.
  - d) In case the PIO is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgment before the Commission on or before the next date of hearing, alongwith the present address of the then PIO.
  - e) The Registry is directed to initiate penalty proceeding against the PIO.

Proceeding of the present appeal 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.

