

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No. 13/2022
In
Appeal No. 182/2021/SIC

Shri. Jawaharlal Shetye,
H. No. 35/A, Ward No. 11,
Khorlim, Mapusa-Goa, 403507

-----Appellant

V/s

1. The Public Information Officer,
Mapusa Municipal Council,
Mapusa-Goa, 403507

2. The First Appellate Authority,
The Chief Officer,
Mapusa Municipal Council,
Mapusa-Goa

-----Respondents

Relevant dates emerging from penalty proceeding:

Order passed in Appeal No. 182/2021/SIC	: 13/05/2022
Showcause notice issued to PIO	: 19/05/2022
Beginning of the Penalty proceeding	: 24/06/2022
Decided on	: 27/02/2023

ORDER

1. The Penalty proceeding against Respondent Shri. Abhay Rane, the then PIO, Shri. Sarvottam Satardekar, former PIO and Shri. Subraj Kanekar, present PIO, Mapusa Municipal Council has been initiated vide Show Cause Notice dated 19/05/2022 issued under Section 20(1) and 20(2) of the Right to Information Act (hereinafter referred to as the 'Act') for not furnishing the information to the appellant.

2. The Commission has discussed complete details of this case in the order dated 13/05/2022. Nevertheless, the facts are reiterated in brief in order to apprise the matter in its proper perspective.
3. The brief facts of this appeal are that the appellant vide application dated 03/05/2021 sought information from PIO on nine points. Upon not receiving any reply within the stipulated period, he filed appeal dated 15/06/2021 before the FAA. The said appeal was not heard by the FAA within the mandatory period, hence aggrieved appellant preferred the second appeal.
4. The Commission after due proceeding disposed the appeal vide order dated 13/05/2022. It was held that the approach of PIOs towards the Act and towards the authorities constituted under the Act is worrisome and deplorable. It was also held that these PIOs are guilty of not honouring the provisions of the Act, which resulted into non furnishing of the information to the appellant. With these findings, the Commission directed the PIOs to show cause as to why action as contemplated under sub section (1) and (2) of section 20 of the Act should not be initiated against them.
5. The penalty proceeding was initiated against Shri. Abhay Rane, Shri. Sarvottam Satardekar and Shri. Subraj Kanekar; the then PIO, former PIO and present PIO respectively. Pursuant to the notice, Shri. Abhay Rane, Shri. Sarvottam Satardekar and Shri. Subraj Kanekar appeared. Shri. Abhay Rane filed reply dated 24/06/2022, submission dated 29/07/2022 and compliance report on 29/08/2022. Shri. Sarvottam Satardekar filed reply on 24/06/2022. Shri. Subraj Kanekar filed reply dated 24/06/2022 and submission on 07/07/2022. Shri. Rajendra Bagkar took over as PIO, during the penalty proceeding and on 10/02/2023 filed reply alongwith enclosures of information.

6. Shri. Abhay Rane, the then PIO stated that the subject matter of Appeal No. 182/2021/SIC pertains to Administration section and there are separate PIOs appointed for the concerned sections. Hence, he was not accountable to furnish the information concerning with other sections. Shri. Abhay Rane further stated that he has been discharging his duty sincerely, hence, notice issued against him may be withdrawn.

7. Shri. Sarvottam Satardekar, former PIO submitted that, while working as Deputy Director of Accounts/District Treasury Officer he was given additional charge of the post of Accounts cum Administrative Officer in Mapusa Municipal Council and was relieved from the said charge vide order dated 03/11/2021. Shri. Sarvottam Satardekar further submitted that he was unaware of the appeal proceeding and he does not belong to the Department of Urban Development, hence requests not to impose penal action against him

8. Shri. Subraj Kanekar, present PIO stated that he took charge as accounts cum Administrative Officer of the Mapusa Municipal Council on 06/04/2022 in addition to the regular charge in the Department of Transport as Deputy Director of Accounts. Shri. Subraj Kanekar further stated that, he was also requisitioned for election duty for the General Elections to the State Assembly and he being from common cadre of Accounts, was unaware of the proceeding of appeal, thus show cause issued against him may be dropped.

9. Upon perusal, it is seen that the appellant was not furnished the information which he had sought vide application dated 03/05/2021 and being aggrieved by non furnishing of the information as well as non hearing of the first appeal, he filed

second appeal. The Commission relying on the available records, provided by the appellant and respondents, while disposing the appeal, issued show cause notice against Shri. Abhay Rane, Shri. Sarvottam Satardekar and Shri. Subraj Kanekar. Now, during the penalty proceeding, it has been found that the subject matter of the application pertained to the Administration and Technical Section, Hence, no action against Shri. Abhay Rane, who was the PIO of Taxation Section can be justified. Thus, explanation furnished by Shri. Abhay Rane needs to be accepted and show cause notice issued against him is required to be withdrawn.

10. Shri. Sarvottam satardekar and Shri. Subraj Kanekar, by virtue of being the Accounts cum Administrative Officer though on additional charge, were PIO of Administration Section of Mapusa Municipal Council for a brief period. However, neither Shri. Sarvottam Satardekar, nor Shri. Subraj Kanekar was the PIO during the stipulated period of the application. Similarly, both these officers belong to common cadre of Accounts and not under the Department of Urban Development. Show Cause notice issued against them was based on the information provided by the appellant and respondents. This being the case, explanation given by Shri. Sarvottam Satardekar and Shri. Subraj Kanekar needs to be accepted and show cause notice against them is required to be withdrawn.

11. In the meanwhile it is seen that, Shri. Rajendra Bagkar, who took over as PIO of Mapusa Municipal Council, during the present penalty proceeding, on 09/02/2023 filed a submission in the registry alongwith enclosures of the information. Appellant, if desires, may collect the same from the registry.

12. Hon'ble High Court of Bombay at Goa, in writ Petition No. 205/2007, Shri. A. A. Parulekar V/s. Goa State Information Commission, has held that:-

“ 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”.

13. Subscribing to the ratio laid down by the Hon'ble High Court, and considering the findings in para 9 and 10 above, the Commission concludes that the present case does not warrant levy of penalty under section 20 of the Act, against Shri. Abhay Rane, Shri. Sarvottam Satardekar and Shri. Subraj Kanekar.

14. Thus, the Show Cause notice issued against Shri. Abhay Rane, Shri. Sarvoittam Satardekar and Shri. Subraj Kanekar stands withdrawn and the penalty proceeding is dropped. The matter is disposed and the proceeding 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