

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No. 43/2022
In
Appeal No. 154/2022/SIC

Shri. John Francis D'Silva,
R/o. H. No. 131,
Gogol Housing Board,
Margao, Goa 403601

-----Appellant

V/s

1. The Public Information Officer (PIO),
Mamlatdar of Salcete, Mathany Saldanha Complex,
Fatorda-Goa
 2. The First Appellate Authority (FAA),
Dy. Collector and Sub-Divisional Officer,
Margao-Goa
- Respondents

Relevant dates emerging from penalty proceeding:

Order passed in Appeal No. 154/2022/SIC	: 07/11/2022
Showcause notice issued to PIO	: 11/11/2022
Beginning of the Penalty proceeding	: 22/12/2022
Decided on	: 20/03/2023

ORDER

1. The penalty proceeding against Respondent Public Information Officer (PIO), Shri. Laxmikant R. Dessai, Mamlatdar of Salcete Taluka has been initiated vide showcause notice dated 11/11/2022, issued under Section 20(1) and 20(2) of the Right to Information Act, 2005 (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 07/11/2022. Nevertheless, the facts are reiterated in brief in order to appraise the matter in its proper perspective.
3. The appellant, vide application dated 22/12/2021 had sought certain information from PIO. Upon not receiving any reply within the stipulated period, he filed appeal before the First Appellate Authority (FAA). The FAA directed PIO to file FIR in the case of missing file, by following the office procedure and submit compliance regarding filing of FIR within seven days. However PIO did not comply with the order, hence, appellant filed second appeal before the Commission.
4. The Commission after due proceeding disposed the appeal vide order dated 07/11/2022. It was held that the PIO is guilty of not furnishing the information and not complying with the order of the FAA. The Commission vide the said order observed that such a conduct of PIO is not in consonance with the Act and directed PIO to show cause as to why action as contemplated under Section 20 (1) and 20 (2) of the Act should not be initiated against him.
5. The penalty proceeding was initiated against Shri. Laxmikant R. Dessai, PIO. Smt. Sharmila Sinai Kerkar and Shri. Rohan Paes appeared on behalf of the PIO under authority letter and filed reply dated 17/01/2023 and 07/02/2023. Advocate Brigida Parado appeared for the appellant.
6. PIO stated that, efforts were made to search the concerned file sought by the appellant, however the same was not found in the records. As per the order of the Commission dated 07/11/2022 in Appeal No. 154/2022/SIC, FIR has been filed at Fatorda Police

Station before Police Inspector, Margao, Salcete. Hence he requests the Commission to withdraw the show cause notice.

7. Upon perusal of the records of the present penalty proceeding and the relevant appeal, it is seen that the PIO had not furnished the information, hence was held guilty of contravention of section 7(1) of the Act. The Commission while disposing the appeal had directed the PIO to undertake thorough search of the concerned records in order to furnish the information and file FIR if the concerned file is not found.
8. Accordingly, PIO had undertaken search and stated that the concerned file is not found in his records. Further, as directed, PIO vide letter dated 06/01/2023 requested the Police Inspector, Fatorda Police Station to file FIR into missing file Case No. JM-I/Mund/Reg/Ben/629/78. The FIR has been registered in Fatorda Police Station on 18/01/2023, copy of the same has been furnished before the Commission by the PIO on 07/02/2023.
9. Advocate Brigida Parado, on behalf of the appellant acknowledged the receipt of the said FIR on 13/02/2023 and on 09/03/2023 requested the Commission to dispose the present matter, as the PIO had complied with the direction of the Commission.
10. This being the case, the Commission finds that the information sought by the appellant was not available in the office of the PIO, thus he could not furnish any information. He was required to file FIR as directed by the FAA, wherein, he failed to take appropriate action. However, the PIO has now complied with the direction of the Commission by undertaking thorough search and filing FIR into the missing file. Thus it is concluded that since

the concerned file was missing from the records, PIO was not in a position to furnish the information to the appellant. Now, as he has filed FIR into the issue of missing file, no malafide needs to be attributed to the intention and the action of the PIO.

11. Considering the above mentioned findings, the Commission concludes that the present case does not warrant levy of penalty under section 20 of the Act against Shri. Laxmikant R. Dessai, PIO, Mamlatdar of Salcete Taluka.

12. Thus, the showcause notice issued against Shri. Laxmikant R. Dessai, PIO 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