

GOA STATE INFORMATION COMMISSION

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

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No.06/2023

In

Complaint No. 31/2022/SIC

Shri. Deepak Gracias,
R/o. Karishma Apartments,
'C' Block, Near Cine Vishant,
Aquem, Margao-Goa 403601 .

-----Complainant

v/s

1. The Public Information Officer,
Directorate of Municipal Administration,
Dempo Towers, Panaji-Goa.

2. First Appellate Authority,
Directorate of Municipal Administration,
Dempo Towers, Panaji-Goa.

-----Opponents

Relevant dates emerging from penalty proceeding:

Order passed in Appeal No. 132/2022/SIC	: 30/01/2023
Show cause notice issued to PIO	: 03/02/2023
Beginning of penalty proceeding	: 06/03/2023
Decided on	: 24/07/2023

ORDER

1. The Penalty proceeding against Opponent Shri. Clen Madeira, the then Additional Director, Department of Urban Development (earlier, Directorate of Municipal Administration) has been initiated vide Show Cause Notice dated 03/02/2023 issued under Section 20 (1) and (2) of the Right to Information Act (hereinafter referred to as the 'Act') for non furnishing of the complete information and non compliance of the direction of the Commission.
2. The Commission has discussed complete details of this case in the order dated 30/01/2023. Nevertheless, the facts are reiterated in brief in order to appraise the matter in its proper perspective.
3. The brief facts of this matter are that the complainant vide application dated 27/07/2021 had sought certain information from the PIO. Upon not receiving any response within the stipulated period, he filed appeal before the FAA. The said appeal was not heard by the FAA, hence, the aggrieved complainant filed second appeal. The Commission after hearing both the sides disposed the appeal with direction to the PIO to furnish the information within 20

days. Later, complainant preferred complaint under Section 18 of the Act for non compliance of the order dated 22/07/2022.

4. The Commission, after due proceeding disposed the complaint vide order dated 30/01/2023. It was held that the PIO is guilty of contravention of Section 7 (1) of the Act, by not furnishing the information to the applicant. The Commission observed that such an arrogant and deplorable conduct is not expected from the Government Officer of senior rank, designated under the Act. With these findings, the Commission directed the PIO to show cause as to why penalty as provided under Section 20 (1) and 20 (2) of the Act should not be imposed against him.
5. Pursuant to the notice, Advocate Vledson Braganza appeared on behalf of the PIO and filed reply dated 04/05/2023. Additional reply on behalf of the PIO was received in the entry registry on 28/06/2023. Appellant appeared in person praying for imposition of penalty against the PIO, filed submission in the entry registry on 04/07/2023.
6. Shri. Clen Madeira, the then PIO stated that, the application for information was received in his office on 27/07/2021, whereas, he was not on duty from 12/07/2021 to 13/08/2021 due to the fact that he was admitted at the Goa Medical College (GMC) hospital for medical treatment. That, he was unable to attend duty as PIO during the above mentioned period and in his absence the charge as PIO was given to Shri. Dipesh Priolkar, who was the Deputy Director of Municipal Administration, Panaji-Goa.
7. The then PIO, Shri. Madeira further submitted that upon joining office as PIO he issued a reply dated 13/09/2021 to the appellant and requested him to inspect the relevant file, however, the applicant did not respond. Thus, inspite of not being the PIO on the date of application, he has responded to the applicant and the delay in replying is not intentional.
8. Advocate Vledson Braganza while arguing on behalf of the PIO submitted that, the PIO never intended to deny the information, it was the case of the complainant that he did not respond to the reply of the PIO and filed appeals. Also, the complainant has not rebutted the contention of the PIO.
9. Complainant submitted that, the opponent PIO has acted in arbitrary manner by denying the complete information, hence he has to be

penalized. Further, if the PIO had medical issues, the First Appellate Authority should have informed the Commission and instructed the APIO or appointed APIO or substitute PIO to comply with the duties of the PIO. Complainant further submitted that he does not accept the contents of the reply filed by the PIO.

10. Upon perusal of the records of the present matter it is seen that, the complainant was basically aggrieved by no response from the PIO to his application. It is true that the complainant received no reply within the stipulated period from the PIO. However, now it is clear from the available records that Shri. Clen Madeira, opponent in the instant proceeding was not on duty on the day of the application dated 27/07/2021 and that he was on medical leave from 12/07/2021 to 13/08/2021, and Shri. Dipesh Priolkar, Deputy Director was given charge as PIO during the said period. Meaning, it was the responsibility of Shri. Dipesh Priolkar to respond to the application, being the PIO on the date of the application. However, Shri. Dipesh Priolkar since not impleaded in the present matter, did not get any opportunity to justify his action. Thus, no penalty can be imposed against him.
11. Further it is noted that Shri. Clen Madeira, upon joining the duty, issued reply to the complainant, however, the complainant did not respond to the request of the PIO. The complainant though stated that he had visited PIO's office on more than one occasion, has not produced any document to substantiate the said contention. On the other hand the then PIO has contended that he was willing to provide the inspection to the complainant.
12. The Commission relying on the available records and details provided by the complainant, while disposing Complaint No. 31/2022/SIC, vide order dated 30/01/2023, issued show cause notice against Shri. Clen Madeira. However, now during the penalty proceeding it has been found that Shri. Clen Madeira was not the PIO on the date of the receipt of the application, hence, he was not responsible to respond to the application. Thus, explanation furnished by Shri. Clen Madeira needs to be accepted and no penalty can be imposed against him.
13. In the background of the facts as mentioned above, the Commission finds that the showcause notice issued under Section 20 (1) and 20 (2) of the Act against Shri. Clen Madeira, the then PIO is required to be withdrawn. The Commission concludes that the present case does not warrant levy of penalty under Section 20 of the Act against Shri. Clen Madeira, the then PIO.

14. Thus, the show cause notice against Shri. Clen Madeira stands withdrawn and the present 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