

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No.09/2023

In

Appeal No. 240/2022/SIC

Shri. Santana Piedade Afonso,
House No. 263, Comba-Central,
P.O. Cuncolim, Salcete-Goa,
Pin Code 403703.

-----Appellant

v/s

1. Shri. Laxmikant Dessai,
Public Information Officer/ Mamlatdar of Salcete,
O/o. the Mamlatdar of Salcete Taluka,
1st Floor, Mathany Saldhana Administrative Complex,
Margao-Salcete-Goa, Pin Code. 403601.

2. Shri. Uday R. Prabhu Dessai,
First Appellate Authority/ Deputy Collector & SDO,
1st Floor, Mathany Saldhana Administrative Complex,
Margao- Goa, 403601.

-----Respondents

Relevant dates emerging from penalty proceeding:

Order passed in Appeal No. 240/2022/SIC	: 13/02/2023
Show cause notice issued to PIO	: 14/02/2023
Beginning of penalty proceeding	: 13/03/2023
Decided on	: 22/05/2023

ORDER

1. The penalty proceeding has been initiated against Shri. Laxmikant Dessai, Respondent Public Information Officer (PIO), under Sub-Section (1) and (2) of Section 20 of the Right to Information Act, 2005 (herein referred to as the 'Act') for contravention of Section 7 (1) of the Act and non compliance of the directions of the FAA and the Commission.
2. The complete details of this case are discussed in the order dated 13/02/2023 of the Commission. However, the facts are reiterated in brief in order to steer through in its proper perspective.
3. The appellant had sought certain information from PIO. He did not receive any information inspite of the direction of the First Appellant Authority (FAA). Being aggrieved, appellant appeared before the Commission by way of second appeal, praying for information and penal action against the PIO.

4. The Commission after hearing both the sides disposed the appeal vide order dated 13/02/2023. It was concluded that the PIO had failed to provide inspection and information as sought by the appellant and the said failure amounts to contravention of Section 7 (1) of the Act. The Commission found that, Firstly- PIO did not furnish the information within the stipulated period, Secondly- PIO failed to comply with the direction of the FAA and Thirdly- PIO maintained his adamant stand of not furnishing the information inspite of the opportunity provided by the Commission. The Commission held that, such obdurate conduct of the PIO is not acceptable, and the PIO was issued showcause notice seeking his reply as to why penalty as provided in Section 20 (1) and / or 20 (2) of the Act should not be imposed on him.
5. Penalty proceeding was initiated against Shri. Laxmikant Dessai, PIO and Mamlatdar of Salcete Taluka. Shri. Rohan Paes, APIO appeared on behalf of the PIO and undertook to furnish the information. Later, Shri. Vishwas Satardekar, APIO appeared on behalf of Respondent PIO. Appellant appeared in person and filed submission dated 26/04/2023.
6. Appellant stated that, as per the order dated 13/02/2023 passed by the Commission, he visited PIO's office and requested the staff of RTI cell of the office of PIO to provide him the inspection of Gut Book Map. Appellant further stated that, after initial resistance the concerned staff finally summoned Talathi of Utorda village to get the Gut Book. Shri. Rohan Paes and Shri. Vishwas Satardekar organized for the inspection and finally copies of the Gut Book as sought vide application dated 09/03/2023 were furnished before the Commission of 26/04/2023. Appellant further stated that, he still prays for imposing penalty against the PIO for not providing the information within time, deliberately refusing and challenging the appellant as well as the authorities and for making him run from pillars to posts to get the information.
7. The Commission has perused the records of the present penalty proceeding as well as records of Appeal No. 240/2022/SIC decided on 13/02/2023. It is seen that the appellant had requested for Suo Motu inspection and disclosure of the Gut Book Map of village Utorda. PIO vide reply issued after more than 40 days from the receipt of the application denied the request. Later, PIO failed to comply with the direction of the FAA to furnish the information within 10 days.

8. During the proceeding of the second appeal PIO was represented by Smt. Sharmila Sinai Kerkar, APIO. Reply filed by the PIO again stated that, the said information cannot be provided. It was noted that neither the PIO nor his representatives attended the further appeal proceeding. Similarly, during the present penalty proceeding Shri. Rohan Paes and Shri. Vishwas Satardekar appeared on behalf of the PIO, however, PIO evaded personal appearance and filed no reply. The Commission finds that Shri, Laxmikant Dessai, PIO was never willing to furnish the information. He had denied information within the stipulated period and also after the direction from the FAA. Further, it is seen that the PIO failed to comply with the direction of the Commission also it is not that the information sought by the appellant was difficult to be traced, the said information, i.e. Gut Book Maps of village Utorda was readily available and PIO was only required to summon Talathi of village Utorda to get the said Gut Book for inspection and furnish the copy to the appellant. The Commission finds that PIO was always in the denial mode showed least respect to the FAA as well as the Commission and failed to adhere to the orders of the authorities.
9. It was the appellant who took initiative and met Smt. Sharmila Sinari Kerkar, Shri. Rohan Paes and Shri. Vishwas Satardekar, APIO in their office and requested them to arrange Gut Book for inspection. After continuous follow up with the subordinates of the PIO appellant was provides the inspection and finally on 26/04/2023 information was furnished by Shr. Vishwas Satardekar, APIO before the Commission.
10. PIO during the entire penalty proceeding was found least interested in complying with the direction of the Commission. The PIO was issued showcause notice dated 14/02/2023 under Section 20 (1) and 20 (2) of the Act and was directed to remain present before the Commission on 13/03/2023 at 10.30 a.m. alongwith written reply to the showcause notice. The Commission with all seriousness notes that the PIO neither remained present in person, nor filed any reply justifying his action. Only APIOs attended the penalty proceeding and tried to defend the PIO.
11. Thus, the PIO did not furnish the information within 10 days as directed vide order dated 13/02/2023, information was furnished on 26/04/2023 by the APIO, only after continuous follow up by the appellant and direction by the Commission to that effect. Similarly, PIO never appeared before the Commission in person, nor filed any reply as directed vide showcause notice dated 14/02/2023. Meaning, the PIO has shown scant respect, rather no respect to the Act and

the authorities constituted under the Act, such as the FAA and the Commission. Such an obdurate conduct on the part of the PIO is totally unacceptable vis-à-vis the intent of the Act.

12. The Hon'ble Gujarat High Court in Special Civil Application No. 8376 of 2010 in case of Urmish M. Patel v/s. State of Gujarat & 5 has held that Penalty can be imposed if First Appellant Authority order is not complied.

"8. Nevertheless, I cannot lose sight of the fact that the petitioner did not supply information, even after the order of the appellate authority, directing him to do so. Whatever be the nature of the appellate order the petitioner was duty bound to implement the same, whether it was a speaking order or whether the appellate authority was passing the same after following the procedure or whether there was any legal flaw in such an order, he ought to have complied with the same promptly and without hesitation. In that context, the petitioner failed to discharge his duty."

13. The Honourable High Court of Punjab and Haryana, in Civil Writ Petition No. 14161 of 2009, Shaheed Kanshi Ram Memorial V/s State Information Commission has held:-

"As per provisions of the Act, Public Information Officer is supposed to supply correct information that too, in a time bound manner. Once a finding has come that he has not acted in the manner prescribed under the Act, imposition of penalty is perfectly justified. No case is made out for interference."

14. The Honourable High Court of Delhi in Writ Petition (c) 3845/2007; Mujibur Rehman V/s Central Information Commission, while mentioning the order of Commission of imposing penalty on PIO has held:-

"Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy."

15. In the background of the findings of the Commission and subscribing to the ratio laid down by the Hon'ble High Courts in the above mentioned judgments, PIO in the present matter is held guilty of

contravention of Section 7 (1) of the Act, for not complying with the direction of the FAA and the Commission. Thus, the Commission is completely convinced and is of the firm opinion that this is a fit case for imposing penalty under Section 20 (1) of the Act against the PIO. Hence, the Commission passes the following order:-

- a) Shri. Laxmikant Dessai, PIO, Mamlatdar of Salcete, Margao-Salcete shall pay Rs. 12,000/- (Rupees Twelve Thousand only) as penalty for contravention of Section 7 (1) of the Act and for not complying with the order of the FAA and the Commission in the specified time frame.
- b) Aforesaid amount of penalty shall be deducted from the salary of PIO in three installments of equal amount of Rs. 4,000/- each beginning from the salary of the month of June 2023 to August 2023, and the amount shall be credited to the Government treasury.

With the above directions, the present penalty 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