

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Penalty No. 20/2023

In

Appeal No. 260/2022/SIC

Narayan Datta Naik,
H. No. 278/1 (3),
Savorfond, Sancoale,
403710.

-----Appellant

v/s

Shri. Raghuvir D. Bagkar,
Public Information Officer,
Village Panchayat of Sancoale,
Pin Code No. 403710.

-----Respondent

Relevant dates emerging from penalty proceeding:

Order passed in Appeal No. 260/2022/SIC	: 20/03/2023
Show cause notice issued to PIO	: 30/03/2023
Beginning of penalty proceeding	: 02/05/2023
Decided on	: 14/09/2023

ORDER

1. The penalty proceeding has been initiated against Shri. Raghuvir D. Bagkar, Public Information Officer (PIO), under Sub-Section (1) of Section 20 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') for contravention of Section 7 (1) of the Act and non compliance of the order of the appellate authority.
2. The complete details of this case are discussed in the order dated 20/03/2023 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 the PIO. He did not receive any information inspite of the direction of the First Appellate 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 20/03/2023. It was concluded that the PIO is guilty of contravention of Section 7 (1) of the Act, non compliance of the direction of the FAA and not honouring the direction of the

Commission, and that the said conduct deserves penal action. The Commission found that the PIO did not proceed as provided under the law and took no efforts to furnish complete information to the appellant. It was concluded that non adherence to the direction of the appellate authority designated under the Act is not acceptable to the Commission and the PIO was held guilty of contravention of Section 7 (1) of the Act. This being the case, the PIO was issued show cause 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 against him.

5. Penalty proceeding was initiated against Shri. Raghuvir D. Bagkar, the then PIO and Secretary of Village Panchayat Sancoale. PIO appeared alongwith Advocate Siddhesh P. Patkar and Advocate Yagnesh Signapurkar and filed reply dated 08/06/2023. Appellant appeared in person and filed submission dated 27/06/2023.
6. PIO stated that, the information sought by the appellant was voluminous and bulky in nature and not specific. The appellant being aware that he needs to come to Panchayat office for the inspection of files to sort out the information from the records, the appellant in a hasty manner filed first appeal. This shows mischievous conduct of the appellant thereby abusing the due process of law, thus harassing the Government servant.
7. PIO further contended that, appellant is a cantankerous litigant who keeps on filing applications and appeals only to harass the PIO and never co-operates with the PIO when requested to visit the office for inspection. That, the respondent PIO solely cannot be held responsible for non furnishing of the information and the appellant is also equally responsible for causing delay by not co-operating with the PIO, thus the PIO prays for withdrawal of the show cause notice.
8. Appellant submitted that, the Commission vide order dated 20/03/2023 had directed PIO to furnish the information within 30 days, however, no information has been furnished as on date. That, the PIO has intentionally avoided disclosure of the information available in his office.
9. The Commission has perused records of the present penalty proceeding as well as relevant appeal (Appeal No. 260/2022/SIC, decided on 20/03/2023). It is noted that, the appellant vide application dated 13/06/2022 had sought information on vide ranging issues with respect to correspondence between the Village Panchayat of Sancoale and Marman Engineering and Shipbuilding Pvt. Ltd.,

since the inception of the said establishment. PIO inspite of being aware of the provisions and responsibilities under the Act, did not respond to the application at all. Appellant, after waiting till the expiry of the stipulated period of 30 days, on 21/07/2022 filed first appeal before the FAA. After hearing both the sides FAA held that the PIO has failed to provide point wise information and vide order dated 13/09/2022 directed the PIO to furnish information within 10 days. Surprisingly and shockingly, the PIO decided to overlook the direction of the FAA, took no action in order to comply with the said order.

10. After hearing both the sides in appeal proceeding the Commission had directed PIO to furnish the information within 30 days. PIO during the present penalty proceeding contended that it was tedious task for him to carry out the administrative functions of Village Panchayat and at the same time provide information after information to the appellant sought through various applications. The Commission would have considered the said contention of the PIO had he taken efforts to furnish the information. On the contrary, PIO took no efforts to furnish the information and produced different excuses at different stages. Hence, the said contention cannot be accepted. The Commission cannot pardon the PIO since there is no effort at all on the part of the PIO during the proceeding of the appeal as well as present penalty proceeding to provide any information and honour the law.

11. In a similar matter, Hon'ble High Court of Haryana in the case of Dalbir Singh V/s Chief Information Commissioner (C.W.P. 18694 of 2011) has observed:-

"There appears to be no justification to deny the information on this ground. Suffice it to mention that if the records are bulky or compilation of the information is likely to take some time, the information officer might be well within his right to seek extension of time in supply of the said information, expenses for which are obviously to be borne by the petitioner."

12. In the context of Section 7 (9) of RTI Act 2005 Hon'ble High Court of Kerala in writ petition no. 6532 of 2006 in Treesa Irish Vs. The C.P.I.O. and others has observed and held:-

"In fact, there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately direct the resources of the public authority."

13. Above mentioned judgment by the Hon'ble High Court of Punjab and Haryana highlights the responsibility of PIO in the case of

voluminous information sought by the appellant, and does not absolve PIO of his duty of furnishing the information. Also, the other judgment by Hon'ble High Court of Kerala stresses on the mandate of the PIO to furnish the information. Accordingly, the Commission holds the PIO guilty of not furnishing the information as required under Section 7 (1) of the Act. Similarly, the PIO is guilty of not honouring the direction of the Commission.

14. 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."

15. 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 limit 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."

16. 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.

17. In the background of the findings of the Commission and subscribing to the ratio laid down by Hon'ble High Courts in above mentioned judgments, PIO in the present matter is held guilty for not furnishing

the information and not complying with the directions of the FAA and the Commission.

18. From the conduct of the PIO, it is clearly inferred that he has no concern to his obligations under the Act and has no respect towards the higher authorities, such a conduct is totally unacceptable vis-a-vis the intent of the Act and 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.
19. Thus, the Commission passes the following order:-
 - a) Shri. Raghuvir D. Bagkar, the then PIO, Village Panchayat Sancoale 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.
 - b) Aforesaid amount of penalty shall be deducted from the salary of PIO and the amount shall be credited to the Government treasury.

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