

**GOA STATE INFORMATION COMMISSION**

“Kamat Towers” 7<sup>th</sup> Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880 E-mail: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) Website: [www.scic.goa.gov.in](http://www.scic.goa.gov.in)

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Penalty No.26/2022**

**In**

**Appeal No. 278/2021/SIC**

Shri. Satish K. Naik,  
H.No. 569, Thorlem Bhat,  
Dongrim, Tiswadi-Goa.

-----Appellant

**v/s**

The Public Information Officer,  
Office of the Mamlatdar of Tiswadi,  
Panaji-Goa 403001.

-----Respondent

**Relevant dates emerging from penalty proceeding:**

Order passed in Appeal No. 278/2021/SIC	: 29/07/2022
Show cause notice issued to PIO	: 03/08/2022
Beginning of penalty proceeding	: 25/08/2022
Decided on	: 23/01/2023

**ORDER**

1. The penalty proceeding against Shri. Sanjeev A. Signapurkar, Public Information Officer (PIO), Awal Karkun, Office of Mamlatdar of Tiswadi, Panaji Goa has been initiated vide show cause notice dated 03/08/2022 issued under Section 20 (1) and 20 (2) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') for his failure to furnish complete information, which amounts to contravention of Section 7 (1) of the Act, and for not complying with the direction of the Commission.
2. The complete details of this case are discussed in the order of this Commission dated 29/07/2022. However, the facts are reiterated in brief in order to steer through in its proper prospective.
3. Appellant vide application dated 29/06/2021 had sought information from PIO on 15 points. PIO vide reply dated 02/08/2021 furnished part information. Aggrieved appellant filed appeal dated 17/08/2021 before the FAA. FAA vide order dated 22/09/2021 directed PIO to search the records and furnish the remaining information. However, PIO did not comply with the said order, hence appellant preferred second appeal against the PIO.
4. The Commission, after due hearing disposed the appeal vide order dated 29/07/2022. It was held that the PIO is guilty of not honouring

the provisions of the Act and for not respecting the directions of the authorities. The Commission, in the said order observed that, the conduct of PIO is completely against the spirit of the Act, hence, the same is deplorable and cannot be subscribed by the authority. With these observations, the Commission directed PIO to show cause as to why penalty under Section 20 (1) of the Act should not be imposed against him.

5. Penalty proceeding was initiated against Shri. Sanjeev A. Signapurkar, Public Information Officer (PIO), Awal Karkun, Office of Mamlatdar of Tiswadi. Shri. Signapurkar appeared on 25/08/2022, filed reply on the same day, and stated that during the proceeding of the second appeal he was transferred to the Office of Collectorate of North Goa, Panaji and Smt. Anusha Gaonkar has joined as Awal Karkun /PIO of the Office of Mamlatdar of Tiswadi. Smt. Anusha Gaonkar, the present PIO appeared in person and filed reply dated 25/08/2022, submission dated 19/09/2022, another submission dated 24/11/2022 and arguments on 12/12/2022. Appellant appeared alongwith Advocate Atish Mandrekar and pressed for complete information and imposition of penalty against the then PIO Shri. Sanjeev A. Signapurkar, for failing to furnish the information within the stipulated period.
6. Shri. Sanjeev A. Signapurkar, the then PIO against whom the penalty proceeding has been initiated, stated that, upon receipt of the application he had requested Awal Karkun II to furnish the information and whatever information received from Awal Karkun II was furnished to the appellant vide letter dated 02/08/2021. Later, he was appointed as Awal Karkun for Electin Cell in the Office of the Mamlatdar of Tiswadi and also appointed as Assistant Electoral Registration Officer for Tiswadi for General Election to the Village Panchayat vide order dated 17/11/2021, by the Goa State Election Commission. As he remained busy in the said work, he could not attend the proceeding of the second appeal, and subsequently was posted in the Office of Collectorate of North Goa in Election Branch and Land Acquisition Branch. That, he has taken efforts to furnish the available information and deliberately or intentionally has not made any act to cause hardship to the appellant.
7. Smt. Anusha Gaonkar, the present PIO submitted that, she had taken charge as PIO of Office of the Mamlatdar of Tiswadi on 07/06/2022. Upon receiving the order dated 29/07/2022 passed by the Commission, she issued note to the dealing hand and information received from the dealing hand on 29/08/2022 was furnished to the appellant. Further, on 24/11/2022 she submitted point-wise reply to the appellant in respect of the RTI application wherein it is stated that

information with respect to point No. 1, 2, 4, 5, 6, 8, 10, 11, 12, 13 and 14 has been furnished. With respect to point No. 7, 9 and 15 information is not available and point No. 3, information is not maintained by this office. Respondent No. 1 is bound to furnish the information which is available in the office records under the Act.

8. Advocate Astish Mandrekar, while arguing on behalf of the appellant contended that, the appellant had sought information on 15 points and he has not received the complete information. Information / complete information on point nos. 3, 7, 11, 13 and 14 is still not furnished by the PIO. Whatever information has been furnished during the present penalty proceeding could have been furnished earlier, within the stipulated period. Hence, the delay in furnishing the available information is deliberate by the then PIO and for that he presses for penal action against the respondent PIO.
9. The Commission has perused the records of the appeal as well as present penalty proceeding. It is noted that the appellant has sought information on 15 points and Shri. Sanjeev A. Signapurkar, the then PIO, with the help of Awal Karkun II furnished information on point nos. 2, 4, 5, 10, 12, 13 and 14 vide letter dated 02/08/2021 and further informed the appellant that the information on point nos. 1, 3, 6, 7, 8, 9, 11 and 15 is not available in records. However, later Smt. Anusha Gaonkar, upon her joining as Awal Karkun / PIO in the Office of the Mamlatdar of Tiswadi, as stated by her, personally undertook search of the relevant record and traced some more information pertaining to the application of the appellant. Smt. Anusha Gaonkar, the present PIO vide letter dated 24/11/2022 furnished additional information on point nos. 1, 6, 8 and 11 and stated that even after rigorous search she could not trace information pertaining to point no. 7, 9 and 15 and information on point no 3 is not maintained by the office of the authority.
10. Though the appellant has pressed for complete information, the Commission, after careful perusal of the record and after hearing the statements of the PIOs finds that the present PIO, after her joining the office, has taken keen efforts to trace the information, yet she could not locate the information on point nos. 3, 7, 9 and 15. The said information is required to be maintained by the authority still the records suggest that part documents are not available. Documents which are not available in the records of the PIO cannot be directed to be produced, and the present PIO who has taken over the charge recently cannot be blamed for the failure to trace the said information.

11. However, it was the responsibility of the then PIO Shri. Sanjeev A. Signapurkar to take genuine efforts to trace the remaining information, yet he failed in his assigned task. Part information on point nos. 1, 6, 8 and 11 which was furnished by the present PIO could have been provided by the then PIO, had he taken genuine efforts. Instead, he only issued a letter to the dealing hand and relied on her efforts and furnished whatever document provided by the dealing hand.

12. Similarly, reason quoted by the then PIO regarding his posting for election work of Village Panchayats and State Assembly cannot be accepted as valid reason, since, he was posted for election work vide order dated 17/11/2021 whereas the appellant had filed application for information on 29/06/2021. The then PIO had ample time to trace the information during the stipulated period of 30 days from the receipt of the application. Similarly, he could have undertaken the search, as directed by the FAA, however he failed on both the instances. His transfer order was issued much later, after the disposal of the first appeal.

13. The Hon'ble High Court of Delhi in W.P. (c) 7232/2009 in J.P. Agrawal vs Union Bank of India has held in para 7:-

*"7. The Act having required the PIOs to "deal with" the request for information and to "render reasonable assistance" to the information seekers, cannot be said to have intended the PIOs to be merely Post Offices as the petitioner would contend. The expression "deal with", in Karen Lambert Vs. London Borough of Southwark (2003) EWHC 2121 (Admin) was held to include everything right from receipt of the application till the issue of decision thereon. Under Section 6(1) and 7(1) of the RTI Act, it is the PIO to whom the application is submitted and it is he who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information, the PIO is expected to recommend a remedial action to be taken. The RTI Act makes the PIO the pivot for enforcing the implementation of the Act."*

14. Further, in para 9, the Hon'ble Court held:-

*"9. This Court in Mujibur Rehman v. Central Information Commission held that information seekers are to be furnished what they ask for and are not to be driven away through*

*filibustering tactics and it is to ensure a culture of information disclosure that penalty provisions have been provided in the RTI Act. The Act has conferred the duty to ensure compliance on the PIO. This Court in Vivek Mittal v. B.P. Srivastava 2009 held that a PIO cannot escape his obligations and duties by stating that persons appointed under him had failed to collect documents and information; that the Act as framed casts obligation upon the PIO to ensure that the provisions of the Act are fully complied. Even otherwise, the settled position in law is that an officer entrusted with the duty is not to act mechanically. The Supreme Court as far back as in Secretary, Haila Kandi Bar Association v. State of Assam 1995 Supp. (3) SCC 736 reminded the high ranking officers generally, not to mechanically forward the information collected through subordinates. The RTI Act has placed confidence in the objectivity of a person appointed as the PIO and when the PIO mechanically forwards the report of his subordinates, he betrays a casual approach shaking the confidence placed in him and duties the probative value of his position and the report.”*

15. 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.”*

16. In yet another matter, the Hon'ble High Court of Bombay at Goa, 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. Subscribing to the ratio laid down by the Hon'ble High Court in the above mentioned matter and considering the findings in the present proceeding, the Commission concludes that Shri. Sanjeev A. Signapurkar, the then PIO is guilty of furnishing the information after the stipulated period, that too incomplete information, with reference to point nos. 1, 6, 8 and 11 of the application. Also, he was required to carry on rigorous search of the records as directed by the FAA, wherein, he failed to adhere the said order. The failure of the then PIO resulted into non compliance of Section 7 (1) of the Act and the said

conduct of the PIO is totally unacceptable. Hence, the Commission is completely convinced that this is a fit case for imposing penalty under Section 20 (1) of the Act. However, considering the fact that the then PIO had furnished part information, though after the expiry of stipulated period, and the present PIO furnished additional information during the penalty proceeding, the Commission shall keep the amount of penalty to minimum.

18. Hence, the Commission passes the following order in the present penalty matter:-

- a. The respondent PIO, Shri. Sanjeev A. Signapurkar, Awal Karkun, Office of the Mamlatdar of Tiswadi shall pay Rs. 4,000/- (Rupees Four Thousand only) as penalty for contravention of Section 7 (1) of the Act, for delay in furnishing the information, for furnishing incomplete information and not honouring the direction of the Commission.
- b. Aforesaid amount of penalty shall be deducted from the salary of PIO of February 2023 and the amount shall be credited to the Government treasury.

19. With the above direction, 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