

**GOA STATE INFORMATION COMMISSION**

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

**Penalty No.50/2022**

**In**

**Appeal No. 148/2022/SIC**

Shri. Jawaharlal T. Shetye,  
H. No. 35/A, Ward 11,  
Bardez-Goa 403507.

-----Appellant

**v/s**

1.The Public Information Officer,  
Administrator of Comunidades of North Zone,  
Mapusa, Bardez-Goa.

2. The First Appellate Authority,  
The Additional Collector- III,  
Govt. Complex Building, 1<sup>st</sup> Floor,  
Mapusa, Bardez-Goa 403507

-----Respondents

**Relevant dates emerging from penalty proceeding:**

Order passed in Appeal No. 148/2022/SIC	: 16/01/2023
Show cause notice issued to PIO	: 23/01/2023
Beginning of penalty proceeding	: 20/02/2023
Decided on	: 17/04/2023

**ORDER**

1. The penalty proceeding has been initiated against Respondent Public Information Officer (PIO), under Sub-Section (1) and (2) 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 16/01/2023 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 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 16/01/2023. 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 has no obligation under the Act and has no respect towards the authorities designated under the Act. The Commission also found that the said conduct is an obstacle for transparency and accountability and not in consonance with the Act, thus, this lapse on the part of the PIO is punishable under Sub Section (1) and (2) of Section 20 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. Sagar B. Gaude, the then PIO and Administrator of Comunidades of North Zone. Shri. Sagar B. Gaude, PIO remained present in person and filed reply dated 20/02/2023 and submission dated 22/02/2023. Shri. Shivprasad S. Naik, present PIO and Administrator of Comunidades of North Zone, on 13/02/2023 filed a submission in the registry and filed reply on 14/03/2023 through his official representative. Appellant appeared and stated before the Commission that he has not received the information even after the direction of the authority.
6. Shri. Sagar B. Gaude, the then PIO against whom show cause notice has been issued stated that, since his appointment on 03/11/2021 as Administrator of Comunidades of North Zone he was busy in preparatory work for elections to the Managing Committees of Comunidades which were scheduled from 05/12/2021. Further, he was appointed as Returning Officer for Bicholim Assembly Constituency and was busy since November 2021 to March 2022 with responsibility of conducting the election.
7. The then PIO further contended that, Secretary of Administrator of Comunidades of North Zone retired on superannuation in January 2022. One daily wage staff resigned on 08/06/2022 and another staff deployed by the Collector of North Goa was relieved on 03/06/2022. Thus, the office of Administrator of Comunidades was facing acute shortage of staff. Further, elections to the remaining Managing Committees of Comunidades were completed in May 2022. As the PIO was busy in the election works and was facing shortage of staff, the application for information from the appellant remained unattended, however the said action of the PIO is not intentional or deliberate to harass the appellant.

8. Shri. Sagar B. Gaude, on 24/02/2023 filed a submission dated 22/02/2023 which is addressed to the present PIO /Administrator of Comunidades of North Zone, requesting him to comply with the direction issued by the Commission in the present matter.
9. Shri. Shivprasad S. Naik, present PIO and Administrator of Comunidades of North Zone vide reply dated 09/03/2023, filed before the Commission on 14/03/2023 stated that, memorandum was issued to the clerk of Cuchelim Comunidade to get the information sought by the appellant. However, the Comunidade of Cuchelim is not giving any information by stating that they are not covered under the purview of the Act, hence information cannot be provided.
10. The Commission has perused the records of the present penalty proceeding as well as the relevant appeal (Appeal No. 148/2022/SIC decided vide order dated 16/01/2023). It is noted that the appellant vide application dated 15/03/2022 had sought information pertaining to the Comunidade of Cuchelim - Mapusa. The said application was not responded by the PIO within the stipulated period. Later, FAA vide order dated 11/05/2022 had directed the PIO to furnish the information within 10 days, yet PIO did not comply with the said direction.
11. Being aggrieved, appellant had filed second appeal before the Commission. After hearing both the sides, the Commission had held that this is a clear case of contravention of Section 7 (1) of the Act by the PIO and he had disobeyed the directions of the FAA and also not fulfilled the undertaking given before the Commission. The Commission vide order dated 16/01/2023 directed the PIO to furnish the information within 15 days and concluded that the guilty PIO needs to be punished under Section 20 of the Act, for his failure to furnish the information sought by the appellant and for not complying with the direction of the appellate authority. Thereafter PIO was issued show cause notice seeking his reply as to why penalty as provided in Section 20 (1) and /or 20 (2) should not be imposed on him.
12. During the penalty proceeding, it is observed that, the PIO has not complied with the direction of the Commission. Advocate Sanjiv S. Sawant, during the appeal proceeding appearing for the PIO, had stated that, the information is kept ready and had undertaken to dispatch the same by Registered AD Post and file compliance report before the Commission, however, no such report was filed inspite of

sufficient opportunity given to him. The Commission had taken serious cognizance of the said failure. Now during the present penalty proceeding again it is observed that the PIO is interested only in giving excuses and had not taken any efforts to furnish the information. The approach of the then PIO during the entire proceeding appears to be casual.

13. As contended by Shri. Sagar B. Gaude, the then PIO, he might have been busy in conducting the elections to the Managing Committees of Comunidades and as Returning Officer for Bicholim Assembly Constituency. Similarly, there might have been shortage of staff. Yet, these difficulties does not absolve PIO from his responsibility of furnishing the information sought under Section 6 (1) of the Act. What is more serious is that, the then PIO did not take any efforts to get the information from his records or from Comunidade of Cuchelim and furnish the same to the appellant. He had multiple opportunities to furnish the information. First- during the stipulated period of application, second- after the order passed by the FAA, third- subsequent to the direction of the Commission and undertaking of his representative before the Commission during the appeal proceeding and fourth- in compliance with the order of the Commission issued while disposing the appeal.
14. Section 7 (1) of the Act mandates PIO to furnish the information within 30 days from the receipt of the application or reject the request for any of the reason specified in Section 8 and 9. PIO in the present matter did not even respond, hence the said inaction under Section 7(2) of the Act amounts to deemed refusal of the request. PIO has neither given any reason for such denial, nor has justified his action as required under Section 19 (5) of the Act. Instead of furnishing the information, which is preliminary responsibility under the Act, PIO's conduct during the appeal as well as present penalty proceeding clearly indicates that he has no intention to comply with the directions issued by the authorities designated under the Act, including the Commission.
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. 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.”*

17. 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.
18. 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.
19. 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.
20. Thus, the Commission passes the following order:-
- a) Shri. Sagar B. Gaude, the then PIO and Administrator of Comunidades of North Zone shall pay Rs. 8,000/- (Rupees Eight 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 in two installments of equal amount of Rs. 4,000/- each beginning from the salary of the month of May 2023 to June 2023, and the amount shall be credited to the Government treasury.
- c) The Registry is directed to send copy of this order to the Additional Collector-III, Govt. Complex Building, 1<sup>st</sup> Floor, Mapusa, Bardez-Goa 403507 for information and necessary action.

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