

GOA STATE INFORMATION COMMISSION

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

Tel: 0832 2437208, 2437908 E-mail: spio-gsic.goa@nic.in

Website: www.gsic.goa.gov.in

Penalty No. 33/2023

In

Complaint No. 32/2022/SCIC

Shri. Juao Francis Noronha,
Maina-Wada, Korgao,
Pernem, Goa

....Complainant

V/s

1. The Public Information Officer (PIO),
Village Panchayat Corgao,
Corgao, Pernem-Goa

2. First Appellate Authority (FAA),
Office of Block Development Officer,
Pernem-Goa, 403512

...Opponent

Shri. Vishwas Satarkar, State Chief Information Commissioner

Decided on: 20/02/2024

ORDER

1. While disposing the Complaint bearing No. 32/2022/SCIC, the Commission vide its order dated 18/07/2023 issued show cause notice to the PIO, Smt. Shradha Korgaonkar, Secretary of Village Panchayat Corgao, Pernem-Goa, as to why Penalty should not be imposed on her in terms of section 20(1) of the Act.
2. Pursuant to the notice Adv. Gitesh B. Shetye appeared and placed on record the reply of the PIO dated 21/08/2023.

Through her reply the PIO contended that, Pursuant to the direction of the Commission she provided the inspection of records to the Complainant to his satisfaction on 21/12/2022 and the Complainant himself admitted that, he is satisfied with the inspection of the file.

The PIO further contended that the information sought by the Complainant vide RTI application dated 21/01/2022 (subject matter of the Complaint) was similar information that was sought by the Complainant vide his earlier RTI application dated 21/09/2020, wherein the PIO had duly replied the said application within the stipulated time of thirty days and inspection was granted to the Complainant to his satisfaction. In order to lend support to his submission, Adv. Gitesh shetye placed on record the RTI application of the Complainant dated 21/09/2020 and reply filed by the PIO dated 20/10/2020.

3. A perusal of the said application dated 21/09/2020 and the reply filed by the PIO dated 20/10/2020 to the said application, is evident that identical information was sought by the Complainant earlier and the record indicates that the Complainant inspected said records on 20/10/2020
4. The facts on record also indicates that on the very first date of hearing of this second appeal Viz. 25/11/2022, Adv. G. B. Naik appeared on behalf of the PIO and submitted that the PIO is ready and willing to furnish the information/inspection of the records, that stipulates that there is no malafide intention of the PIO in denying the information. It is also matter of fact that, upon the direction of the Commission the PIO granted

inspection of records to the Appellant on 21/12/2022 to the satisfaction of the Appellant. The PIO also expressed her remorse for causing the delay in furnishing the information/inspection of records and assured the Commission that henceforth she will take due care while dealing with the RTI matters.

5. The High Court of Bombay, Goa Bench at Panaji in case **Public Authority Officer of Chief Engineer, Panaji v/s Shri. Teshwant Tolio Sawant (W.P. No. 704/2012)** while considering the issue of marginal delay has held as under:-

"6. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO."

6. The High Court of Punjab in the case **State of Punjab & Ors. v/s State Information Commissioner & Ors. (LNIND 2010 PNH 2809)** has observed as under:-

"The delay was not inordinate and there was no contumacious misconduct on the part of the officer to supply to the petitioner the information. The penalty provisions under Section 20 of the RTI Act are only to

sensitize the public authorities that they should act with all due alacrity and not hold up the information which a person seek to obtain. It is not every delay that should be visited with penalty."

7. The High Court of Bombay at Goa in the case **A.A. Parulekar v/s Goa State Information Commission & Anrs. (2010 (1) Mh.L.J.12)** has observed as under:-

"11. The order of penalty for failure is akin to action under Criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."

8. The Appellant also prayed through his rejoinder that, the PIO be directed to pay the compensation for causing harassment, mental tension, and the cost of legal fees. However, the Appellant did not make out any specific plea for the amount of loss or show the quantum of the actual damage caused to him. Such a relief cannot be granted to the Appellant at this stage and unfounded for want of prayer in the appeal. The Hon'ble High Court of Bombay, Goa Bench in recent judgment in the case **Santana Nazareth v/s State of Goa & Ors. (2022 (6) ALL MR 102)** paragraph 4 of the said judgment being relevant is quoted below:-

"4..... compensation as in Section 19(8)(b) is intended to be provided to the information seeker by the public authority on proof of loss or sufferance of detriment by the former because of negligence, carelessness or recalcitrance of the later. Merely because the petitioner was found to have suffered hardship did not entitle her to

payment of compensation unless a case of loss or sufferance of detriment was specifically set up in the appeal.”

9. Considering the fact and circumstances hereinabove and since purported information/inspection has been granted to the Appellant, the show cause notice dated 02/08/2023 issued in the present appeal against the PIO is dropped

- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner