

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri M. S. Keny, State Chief Information Commissioner

**Penalty case No.03/2010
In
Appeal No. 05/SCIC/2010**

Shri Egidio Braganza,
R/o Shipa Apartments,
Altinho, Mapusa –Gao.

... Complainant

V/s

1) The Public Information Officer,
Village Panchayat Secretary,
Village Panchayat Calangute,
Calangute,Bardez –Goa.

... Opponent No.1.

2) First Appellate Authority,
Block Development Officer,
Bardez Taluka,
Mapusa –Goa.

... Opponent No.2.

Complainant alongwith Adv. U. Naik present.

Opponent present.

O R D E R
(28/01/2011)

1. By judgment and order dated 22/3/2010 the Appeal was disposed off as information was furnished. However show cause notice was issued to the respondent No.1/Public Information Officer as to why penal action should not be taken against him for causing delay in furnishing the information.

2. That in pursuance of the said notice the Public Information Officer/PIO appeared and filed the affidavit in reply. It is the case of the PIO/Respondent NO.1. That he was appointed as Secretary of Village Panchayat Calangute with effect from June 2009. that the said information could not have been given as the file was not traceable till 17/03/2010. That the said file was misplaced in the Panchayat office and he tried to locate the same. That the complainant has relied upon the list of taking charge of the records in which one of the file recorded is of Egidio Braganza, however, this file is not regarding the information sought. It is the case of the Respondent No. 1/PIO that he made diligent efforts and the moment the file was traced he furnished the information.

...2/-

3. Affidavit-in-rejoinder of the Appellant/Egidio Braganza is on record. In short according to him the Respondent No. 1 has deliberately hidden the information in order to see that no further action shall be taken against the person, against whom complaint was filed. Appellant denied that file was misplaced. In short the Appellant denied the case set out by the respondent No. 1 in his affidavit-in-reply. According to the appellant the documents produced by the Respondent No. 1 were always in possession of the Respondent No.1 who deliberately and dishonestly did not handover the documents to the Appellant.

4. Additional affidavit-in-reply to show cause notice filed by Respondent/PIO is on record. In this affidavit it is mentioned that letter dated 19/08/2009 sent to the Appellant informing him that it is not easily traced and that he was making efforts to trace the file and once it is available then it will be given to the Complainant. Copies of the said letter and also another letter is produced on record.

One more reply of the Appellant is also on record.

5. Heard the arguments. Adv. Shri P.A. Kamat argued on behalf of PIO/Opponent and Adv. U. Naik argued on behalf of the Appellant. Both the sides advanced elaborate arguments.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the Advocates of the parties. The point that arises for my consideration is whether penalty is to be imposed on the PIO/Respondent or not?

Admittedly there is delay in furnishing the information. According to the Respondent/PIO records were not traceable and that is why he could not furnish the information. He has also produced the letter dated 19/08/2009 informing that the file is not traceable. According to the Respondent this letter was sent by post. Before imposing penalty the commission has to satisfy itself that PIO has defaulted

without reasonable cause. In the instant case the document was not traceable and the PIO had to search the same. Ultimately the file was traced and information was furnished. Adv. for Appellant, though not in so many words, admits that file was to be traced. In any case there is some cause by which the PIO was prevented from giving the information within the prescribed statutory period. In any case the said delay is liable to be condoned and a lenient view to be taken as the information is furnished. The commission accepts the submission of the PIO and at this stage appellant also has no objection.

7. In view of the above, I am of the opinion that explanation is to be accepted and show cause notice is to be discharged. Hence I pass the following order:-

ORDER

The show cause notice issued is discharged.

The proceedings are dropped.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 28th day of January 2010.

Sd/-
(M.S. Keny)
State Chief Information Commissioner

