

GOA STATE INFORMATION COMMISSION  
AT PANAJI

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

**Penalty case No. 15/2010**

In

Complaint No. 107/SCIC/2009

Mr. Mahesh Kamat,  
Shivnery Cooperative Housing Society,  
Comba Margao –Goa.

... Complainant.

V/s

Deemed Public Information Officer,  
Legal Assistant,  
Kadamba Transport Corporation Ltd.,  
Paraiso de Goa,  
Alto Porvorim –Goa.

... Opponent.

Complainant in person.

Opponent in person.

**O R D E R**

(14/02/2011)

1. The Hon'ble State Information commissioner (Shri Afonso Araujo by order dated 29/06/2010 in complaint No. 107/SCIC/2009) issued a show cause notice to the Opponent for deliberately not providing the information and not complying with the directions of the order of the First Appellate Authority. The opponent was directed to provide information at Sr. No. 1 and 2 and give a reply to the show cause notice on 21/03/2010.

2. Accordingly showcause was issued. Reply to the show cause is on record. According to the opponent the copy of affidavit was made available to the complainant during the time of admission of W.P.No.569/2008. That the Writ petition No. 569/08 is sub-judice and final order is yet to be pronounced therefore the information is falling under section 8 (h) of R.T.T Act 2005. That as regards information at serial No. 2 information cannot be provided for simple reason that CRS order was withdrawn for reconsideration and the Writ Petition no. 492/07 withdrawn and disposed off accordingly. That the oral/submission/statement made before the Hon'ble High Court cannot be provided since it is not falling under section 2(f) of the RTI Act 2005. According to the Opponent complaint ought to be dismissed.

...2/-

3. The application filed by the complainant dated 25/10/2010 is on record.

4. Heard the complainant and the opponent. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. I need not refer to the facts of the case in detail. It is seen that application seeking information is dated 31/08/2009. P.I.O Shri A. S. Shirvoiker sent the reply dated 30/09/2009 whereby he informed his inability to furnish the information since the same is not furnished to him by the concerned sectional heads. The complainant preferred the Appeal on 10/11/2009. The First Appellate Authority passed the order on 20/11/2009 whereby it was ordered to supply the information within 7 days. It is seen that on 26/11/2009 some information is furnished as can be seen from annexure 'A' on record. The complaint was filed before the Commission on 15/12/2009. Order is passed on 29/06/2010 directing the opponent to provide information at Sr. No. 1 and 2 and give reply to the show cause. From 29/06/2010 the information is not furnished. Since show cause is issued admittedly there is delay.

I have perused the application seeking information and particularly the items at serial No.1 and 2.

5. I now proceed to consider the question of imposition of penalty on the opponent under section 20 of the R.T.I Act. It appears that information in respect of points at Sr. No. 1 and 2 has not been furnished. The penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. The word 'reasonable' has to be examined in the manner, which a normal person would consider it to be reasonable.

I have perused section 5(4) and 5(5). This section when read with section 20(1) empowers the Commission to impose penalty on the deemed P.I.O.

...3/-

Under section 20 of RTI Act the information Commission must satisfy itself that PIO has without reasonable cause refused not furnished information within specified time frame.

5. I have perused some of the rulings of C.I.C. as well as of High Court of Pb & Haryana as well as Gujarat High Court.

As observed hereinabove there is delay and delay is inexcusable. Considering the date of order of this Commission e.i. 29/06/2010 there is more than 6 months delay. Maximum penalty of Rs. 25,000/- could be imposed on the opponent. However considering the factual matrix of this case and also considering the same as first instance, I am inclined to take a lenient view of the matter. I feel that imposition of penalty of Rs. 12,500/-(Rupees Twelve thousand five hundred only) would meet the ends of justice. Hope the PIO/deemed PIO will not be recalcitrant in the discharge of their statutory duty under RTI in future.

6. In view of the above I pass the following order:-

**ORDER**

The opponent to furnish the information as per the order of the Commission dated 29/06/2010 within 15 days from the receipt of this order.

The opponent is hereby directed to pay Rs. 12,500/-(Rupees twelve thousand five hundred only) as penalty. The said amount of penalty should be recovered in four monthly installments from the salary of opponent from the month of April 2011 onwards by the Director of Accounts. A copy of the order be sent to the Director of Accounts, Panaji –Goa for execution and recovery of the penalty from the opponent. The said amount of Rs. 12,500/- be paid the Govt. treasury. In case the opponent wants to pay the said amount in one or two installments he is free to do so. A copy of the order be sent to the Director of Accounts, Panaji –Goa.

Pronounced in the Commission on this 14<sup>th</sup> day of February, 2011.

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