

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Motilal S. Keny State Chief Information Commissioner

Penalty Case No.1/2011
In
Complaint No. 503/SCIC/2010

Shri Raghunath N. Kauthankar,
F. No.A-3, Kancho Apts.,
Opp. Government Housing School,
Aquem-Alto, Margao,
Salcete - Goa

... Appellant/Complainant.

V/s.

Public Information Officer,
Dy. Collector & SDO,
Sub-Division Margao,
Salcete – Goa

... Respondent/Opponent No.1.

Complainant alongwith Adv. Ms. S. Devsheker.
Opponent in person.

O R D E R

(15.04.2011)

1. By Order dated 04.01.2011 this Commission issued notice under section 20(1) of the R.T.I. Act to Opponent No. 1/Public Information Officer to show cause why penalty action should not be taken against him for causing delay in furnishing information.

2. That in reply to the said notice the Opponent No.1/Public Information Officer has filed his reply which is on record. It is the case of the Opponent that he has received an application from the Complainant on 09.02.2010 seeking certain information under Right to Information Act, 2005. That the said application was referred under section 5(a) of the RTI Act to the respective dealing hand who was handling the subject. That at the relevant time when the application was received all the Staff of his office was totally busy with election to Zilla Parishad and thereafter 1st Phase of Census Operations and soon thereafter bye-election to Zilla Parishad elections were also held in May, 2010. That due to the continuous work of strenuous nature he was unable to keep track and/or monitor the progress of the application made by the Complainant inspite of orders also being passed by the First Appellate Authority. That the dealing hand also being new to the post was not conversant with the subject matter of the case of the Complainant as it

involved issues regarding finance and due to busy schedule in the office by way of which they lost track of the application. It is the case of the Opponent No. 1 that the delay caused was unintentional and not deliberate as there was nothing to hide or be evasive in the entire process and that the only cause was not being conversant with the issue involved as it revolved around question of finance. According to the Opponent No. 1 the delay caused in furnishing the information was to be condoned and no penalty be imposed for the act of omission as there has been no intentional delay by Opponent No. 1.

3. Heard both sides. According to Opponent No. 1 notice is under section 20(1). He reiterated the reasons for causing delay. According to him the application as transferred under section 5(a) and that the dealing hand was new and was not conversant with the subject matter. According to him there was some delay but the same was not intentional. He also submitted that there was no malafide intention. He also submitted that there was no benefit in denying the information. He also submitted that there is no submission from either side that there was malafide intention. According to him delay occurred due to the circumstances as enumerated in the reply and the same is liable to be condoned and notice be withdrawn. Advocate Ms. S. Deusekar submitted that this defense was not taken before First Appellate Authority. According to her in all there was seven months delay. Again there was violation of the Order of First Appellate Authority. Advocate for the Complainant also filed written submissions which are on record. In reply Opponent No. 1 submitted that no malafide intention has been proved and as such delay is liable to be condoned.

4. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. It is seen that the application seeking information is dated 09.02.2010. Reply is furnished on 30.09.2010 which was received by the complainant on 05.10.2010. According to the Complainant there is much delay of seven months. Admittedly there is delay. There is no dispute on this count. The Opponent attributes this delay to the pressure of work and also various assignments given to him as mentioned in the reply. No doubt Opponent was busy but at the same time one must not forget that information sought was not voluminous. Order of First Appellate Authority was in fact a reminder to the Opponent to furnish the information. However, the same was not furnished.

5. I now proceed to consider the question of imposition of penalty upon the Opponent No. 1 under section 20 of the R.T.I. Act. I have come to the conclusion that there is inordinate delay in furnishing information. The explanation given by the Opponent is also satisfactory to some extent. However, under R.T.I. Act delay is inexcusable. Public Authorities must introspect that non-furnishing of information lands a citizen before First Appellate Authority and this Commission, resulting into unnecessary harassment of a common man which is socially abhorring and legally impermissible. Sometimes injury to society is more grievous. Therefore, some sort of penalty helps in curing this social grief. R.T.I. Act provides Rs.250/- per day. However, considering the pros and cons of the matter and the factual backdrop of this case, I feel that imposition of penalty of Rs.5000/- (Rupees five thousand only) would meet the ends of justice.

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

ORDER

The Opponent/PIO is hereby directed to pay Rs. 5000/- (Rupees five thousand only) as penalty imposed on him today. This amount of penalty should be recovered from the salary of P.I.O./Opponent in two instalments for the month of July and August 2011 by the Director of Accounts. A copy of the Order be sent to the Director of Accounts, Panaji-Goa for execution and recovery of penalty from the Opponent. The said amount be paid in Government Treasury.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 15th day of April, 2011.

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