

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

**CORAM:** Shri Motilal S. Keny State Chief Information Commissioner

**Penalty Case No.31/2010**

**In**

**Appeal No. 59/SCIC/2010**

Mr. Jose Joe Carneiro,  
H. No. 118, Sirvordem,  
Salcete – Goa

... Appellant/Complainant.

V/s.

Public Information Officer,  
Margao Municipal Council,  
Margao – Goa

... Respondent/Opponent No.1.

Complainant alongwith Adv. Moraes.  
Opponent alongwith Adv. S. G. Naik.

**O R D E R**

(25.04.2011)

1. By Order dated 22.10.2010 this Commission issued notice under section 20(1) of the R.T.I. Act to the Respondent/Public Information Officer to show cause why penalty action should not be taken against him for causing delay in furnishing information.

2. The Respondent has filed the reply which is on record. It is the case of the Respondent that the delay in furnishing the information sought by the Appellant was not deliberate or intentional but due to the fact that the file could not be traced. That all the efforts made by the office of the Respondent to trace the file have not succeeded. That the Respondent therefore approached the office of SGPDA and secured the Certificate of copies of the documents sought for by the Appellant and furnished the same to him. That this act on the part of this Respondent is sufficient enough to indicate that this Respondent did not want to deprive the Appellant of the information sought for by him. The Respondent also states that the lenient view of the matter be taken and the proceedings be closed.

Supplementary reply has been filed by the Respondent No. 1. It is further the case of the Respondent that the information sought by the Appellant is from a file which is 16 years old. That due to practical difficulties file could not be traced till date on account of extensive renovation work and

painting of the building undertaken by it and reshuffling of its section from one place to another about 5 years back. It is further the case of the Respondent that the spirit of the R.T.I. Act is to provide the information available with department and if the same is not available with the office it is beyond their limits to provide the information.

3. Reply of the Appellant is also on record.

4. Heard both sides and perused the record. It is seen that application seeking information is 09.10.2009. It appears that file is not traceable. The same appears to be of 1993-94. Thus the document being untraceable cannot be physically disclosed and resultantly there is no disclosure obligation on the Respondent. However, the same has to be informed to the Appellant within 30 days as per R.T.I. Act. There is a letter dated 13.01.2010 on record which reads as under:-

“With reference to the above mentioned subject this is to inform you that this office vide letter No. MMC/TECH/RTI/209/2009-10/2232 dated 22.12.2009 informed you that the requested file is not traceable in the office record. ....  
.....  
.....”

This letter was hand delivered as can be seen from the same. If this letter is considered then it becomes clear that on 22.12.2009 the Appellant was informed that information sought was not traceable. If one considers the date of application and date of reply 22.12.2009, there is delay of one month and 12 days. Again, if letter dated 13.01.2010 is considered then the same confirms about informing on 22.12.2009. In any case there is delay in furnishing the said reply.

According to the Respondent this delay is not intentional or deliberate. Appellant has produced a ruling of CIC the copy of which is on record.

5. Under section 20(1) of the R.T.I. Act the Information Commission must satisfy itself that C.P.I.O./S.P.I.O. has without reasonable cause: (i) refused to receive an application; (ii) not furnished the information within the specified time frame; (iii) malafidely denied the information; (iv) knowingly given incorrect, incomplete or misleading information and (v)

destroyed/obstructed giving of information. In the case before me the information sought is not traceable and as such cannot be provided, however, the same has been informed after the statutory period to do so has been over. Consequently, there is delay.

Admittedly there is delay and there is no dispute on this count.

6. Now I proceed to consider the question of imposition of penalty upon the Respondent/P.I.O. under section 20 of the R.T.I. Act. I have already come to the conclusion that there is delay. Under R.T.I. Act delay is inexcusable. Public Authorities must introspect that non-furnishing of information lands an information seeker before First Appellate Authority and also in the Commission resulting into unnecessary harassment of a common man which is socially abhorring and legally impermissible. Sometimes this results in the injury to society which is grievous. Therefore, some sort of penalty helps in curing this social grief.

7. R.T.I. Act provides Rs.250/- per day. I have perused some of the rulings on the point. I have also perused the ruling of C.I.C. relied by the Appellant. In the case before me I have already observed about the information being not traceable. This is a first instance as far as the M. M. Corporation is concerned. Under the Act minimum and maximum penalties have been prescribed and as such proportionalities of such penalties can also be granted. Penalty at the rate of Rs.250/- per day could be granted. However, considering the same as first instance and in the factual matrix of this case I am inclined to take a lenient view of the matter. I feel that imposition of penalty of Rs.5000/- (rupees five thousand only) would meet the ends of justice. This amount is to be paid by the Respondent/P.I.O. of the relevant time.

8. It is high time that the Margao Municipal Council arranges their records properly and comply section 4 of the R.T.I. Act so as to facilitate information under R.T.I. Act.

Hope P.I.O. will not be recalcitrant in the discharge of their statutory duty under R.T.I. Act in future.

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

## **ORDER**

The Respondent/P.I.O. is hereby directed to pay Rs.5000/- (Rupees five thousand only) as penalty. The said amount of Rs.5000/- should be recovered in two instalments from the salary of Respondent/P.I.O. from 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 Respondent/P.I.O. The said amount of Rs.5000/- be paid in Government Treasury.

In case the Respondent/P.I.O. wants to pay the said amount at one time/instalment he is free to do so.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 25<sup>th</sup> day of April, 2011.

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