

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Penalty case No. 04/2010

In

Complaint No.102/2009

Shri Kamu Mahadev Tari,
H.No. 728, Khandir, Karai,
Shiroda –Ponda –Goa.

... Appellant

V/s

The Public Information Officer,
Executive Engineer,
WD. XVIII(Roads) PWD,
Ponda –Goa.

... Respondent

Complainant absent. His Adv. B. Prabhudessai present.
Opponent absent. Adv. H. Naik for the opponent.

O R D E R
(11/05/2011)

1. By order dated 26/03/2010 this Commission issued notice to the opponent/Public Information Officer to show cause why penal action should not be taken against him for causing delay in furnishing information.

2. The Opponent has filed the reply to the show cause, which is on record. The opponent also relies on the reply dated 22/02/2010. It is the case of the Opponent that the delay caused in furnishing information was not intentional, but due to the reason that the office of the opponent was busy with Assembly Session. That even otherwise the information has been collected by the complainant. That due to busy schedule of the PIOs and APIOs office, the information could not be given even though same was kept ready. It is the case of the opponent that a set of Assembly questions was received on 30/11/2009 in Public Information Officer & Assistant Public Information Officer's office which was time bound, and therefore information could not be furnished to the complainant on time. According to the opponent no penalty proceedings lie.

3. Heard learned Adv. B. Prabhudessai for Complainant and learned Adv. Smt. H. Naik for the opponent.

Adv. for Complainant submitted that information was asked on 26/10/2009, however, the same was not given within 30 days. The information was given on 15/01/2010. He next submitted that Assembly questionnaire was received on 30/11/2009. He also submitted that there is nothing to support that they received the questionnaire. According to him there is 48/49 days delay in furnishing information and the delay is intentional and the same be penalised.

Adv. Smt Harsha Naik submitted that Application is dated 26/10/2009 and complaint is filed on 30/11/2009. According to her there is no intentional delay. According to her there was no staff and Assembly questions were to be answered. She argued on similar lines as that of reply filed in the Complaint and to the show cause.

4. I have carefully gone through the records of the case and also considered the arguments advanced by the Advocates of the parties.

It is seen that information was sought on 26/10/2009. The same was received on the same day. The present complaint was filed on 30/11/2009. It is not in dispute that information was furnished on 14/01/2010 or 15/01/2010.

According to the Opponent they were busy with Assembly questions and as such there was delay. He also produced the relevant documents on record.

It is seen that application is dated 26/10/2009 and 30 days would expiry on 26/11/2009. The letter regarding questions is dated 27/11/2009 and it appears that the same was sent on 30/11/2009. In any case this letter is sent after the statutory period for furnishing information is over. It is not known how furnishing information could not be done on account of Assembly

Session as by 26/11/2009 no questionnaire was received by the Opponent. Besides the information sought was not voluminous. Therefore it is difficult to digest the contention of the opponent regarding being busy on account of Assembly Session. I am unable to agree with the contentions of the opponent on that count. Admittedly there is delay and this is not disputed. The only thing is that the same is attributed to the Assembly Question. However this appears to be factually not correct

5. Now it is to be seen about the question of imposition of penalty upon the opponent under section 20 of the RTI Act. It is seen that information has been furnished on 15/01/2010. To my mind the explanation given is not satisfactory. Under RTI Act the delay is in-excusable. Opponent/Public Information Officer failed to perform his statutory duty. In the factual backdrop of this case penalty of Rs. 6,000/- (Six Thousand Only) would meet the ends of justice.

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

O R D E R

The Respondent is directed to pay Rs. 6,000/- (Rupees Six Thousand Only) as penalty. The said amount of penalty should be recovered in two monthly installments from the salary of the Opponent from the month of July 2011 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 the penalty from Respondent. The said amount be paid in Government Treasury.

In case the Respondent wants to pay the entire amount in one installment he is free to do so.

Pronounced in the Commission on this 11th day of May , 2011.

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

