

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Penalty case No. 26/2011**

In

Appeal No. 133/SIC/2010

Shri Mohan Kamat,  
H.No.267, Fatorda,  
Salcete-Goa .

... Appellant .

**V/s**

The Public Information Officer,  
South Goa Planning & Development Authority,  
Near SGPDA, Market Fatorda,  
Margao-Goa

... Respondent

Adv A.B. Menezes for Appellant  
Adv. V. Rodrigues for Respondent

**O R D E R**

(07/06/2011)

1. By order dated 25/02/2011, this Commission issued notice under section 20 (1) of the R.T.I. Act to Respondent No.1/P.I.O. to show cause why penalty action should not be taken against him for causing delay in furnishing information.

2. In pursuance of the said notice the Respondent no.1 had filed the affidavit in reply which is on record. It is the case of the Respondent no.1 that the present proceedings ought to be dropped as there was a bonafide mistake on the part of Respondent no 1 and this would definitely not be a case that comes within the meaning of (without reasonable cause) as required by section 20 of the Act. That there was an application dated 06/01/2010 filed by the Appellant, however, there was another application dated 13/01/2010 received from one Mr. Mohandas P. Kamat and on account of a mix up in the names this Authority has called for the wrong file and upon clarification within the Department, the information was provided to the Appellant vide letter dated 26/03/2010. That during the interregnum the Appellant has issued a reminder which facilitated the process. It is the case of the Respondent

no.1 that mistake was bonafide as the same is unintentional and arises from genuine causes, without any malafide intention. That this point was considered and forms part of the order of the 1<sup>st</sup> Appellate Authority and that F.A.A. accepted the submission and did not impose any cost or disciplinary action against the Authority. According to Respondent No.1 this is not a fit case for invoking the provisions of section 20 of the Act.

3. Heard the arguments. The learned Adv. Shri A.B. Menezes argued on behalf of the Appellant and the learned Adv. Shri V. Rodrigues argued on behalf of the Respondent No.1.

According to Shri Menezes there is delay and the reply is more offensive than the offence. He referred to para 2 and 4 of the reply. He next referred to "reminder facilitated" and submitted that reminder is dated 12-02-2011, then information ought to have been given within 30 days from the date of reminder. He submitted that the application of Mohandas P. Kamat does not bear the seal of the Respondent. That there is no Madlem but Marlem. According to him no leniency be shown and maximum punishment be given.

Advocate for Respondent no.1 referred to the facts of the case and relied on the ruling of the Hon'ble High Court i.e A.A. Parulekar V/S. Goa State Information Commission and anr 2010(1) All MR 223 (High Court of Bombay Goa Bench). He next referred to the application of Mohandas P. Kamat and submitted that there was a mix up/wrong file. He submitted that information is given and was satisfactorily received. According to him there is no imputation of malafides and the delay is not intentional or deliberate. He next submitted that section 20 does not apply and that there is delay but the same is not intentional or deliberate. According to the Adv. for Respondent No.1 proceedings should be dropped.

In reply Appellant submitted that Respondent no.1 is his neighbour and that letter is fabricated.

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

It is seen that the application seeking information is dated 06/01/2010. The information was furnished on 26/03/2010 admittedly there is delay in furnishing the information. It is seen that application seeking information was given on 06/01/2010. The same was received on the same day. No information was furnished hence the Appellant sent reminder on 12/02/2010. As mentioned above the information was furnished on 26/03/2010. It is the contention of the Respondent No.1 that there was another application dated 13/01/2010 received from one Mr Mohandas P. Kamat and on account of a mix up the Authority called for wrong file. It is to be noted here that application of the Appellant was first in time and the application of Mohandas P. Kamat was on 13/01/2010 . The Appellant sent a reminder on 12/02/2010 but information was furnished on 26/03/2010. The Respondent has not even stated or produced material on record to show that the application dated 13/01/2010 was replied in time. Even if this contention is accepted than information ought to have been furnished immediately after the reminder dated 12/02/2010, as the information sought was not voluminous. Even that took much time. Assuming that there was mix up then from 12/02/2010 there is delay which is over one month. I do agree with the adv. for the Appellant when he contends that information ought to have been furnished within 30 days from 12/02/2010.

It is to be noted here that P.I.O. plays an important role under R.T.I., P.I.O. is an interface between the information

seeker and public Authority, P.I.O. should adhere to time frame within which replies are to be given and the ones for timely despatch lies on the P.I.O.

5. I have perused the ruling relied by the Adv. for the Respondent . However the same is not applicable in the facts of this case.

6. Now I proceed to consider the question of imposition of penalty upon the Respondent No.1 under section 20 of the R.T.I. Act. I have come to the conclusion that there is delay in furnishing information. The explanation given by Respondent No.1 even if accepted there e is no satisfactory explanation for delay in furnishing information after 12/02/2010 i.e from the time of reminder sent by the Appellant. The penalty can be imposed only if there is no reasonable cause for not furnishing the information within a period of thirty days. The word reasonable has to be examined in the manner, which a normal person would consider it reasonable. Section 20(1) of the R.T.I. Act, makes it obvious that the commission could impose the penalty for the simple reason of delay in not furnishing the information within the period specified by sub-section (1) of the section 7 of the Act. In any case under R.T.I. delay is inexcusable. Public Authorities must ponder for a while 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. Some times injury to society is grievous.

I have already mentioned that there is delay of about one month and thirteen days R.T.I. Act, provides penalty of Rs. 250/- per day. However considering the factual matrix of this

case I feel that imposition of penalty of Rs.7000/- (Rupees Rupees Seven Thousand Only) would meet the ends of justice

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

**ORDER**

The Respondent No.1/P.I.O. is hereby directed to pay Rs. 7000/-(Rupees Seven Thousand Only) as penalty imposed on him to day. This amount of penalty should be recovered from the salary of P.I.O./Respondent No.1 in two installments 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 Respondent No.1. The said amount be paid in Government Treasury.

The penalty proceedings are accordingly disposed off.  
Pronounced in the Commission on this 7<sup>th</sup> day of June, 2011.

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



