

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Penalty Case No. 72/2010  
In  
Appeal No. 216/SCIC/2010

Shri Roque Pinto,  
Shri Milagres Moraes,  
F/6, Chamundi Apartments,  
Martires Dias Road,  
Margao – Goa

... Appellants/Complainant s

V/s.

Public Information Officer,  
Chief Officer,  
Margao Municipal Council,  
Margao – Goa

... Respondent/Opponent.

Appellants/Complainants in person.  
Respondent/Opponent in person.  
Adv. S. G. Naik for Opponent present.

**ORDER**  
**(19.08.2011)**

1. By Judgment and Order dated 08.12.2010, this Commission issued notice under section 20(1) of the Right to Information Act, 2005 to the Respondent/Public Information Officer (P.I.O.) to show cause why penalty action should not be taken against him for causing delay in furnishing information.

2. Accordingly the Respondent No. 1 has filed the reply which is on record. It is the case of Respondent No. 1 that it is seen from the record maintained by their office that no inspection as carried out by the concerned Junior Engineer in pursuance of the letter dated 07.05.2010 received from the Appellants. That the said Junior Engineer has been transferred from their office and is not possible to obtain his comments for violation of the subject. That it is seen from the records that site inspection was carried on 14.07.2010 by the Junior Engineer on the basis of which final Occupancy Certificate was issued to the family and this has been conveyed to the Appellant by letter dated 23.07.2010. That the delay was not intentional but due to transfer of concerned Junior Engineer. According to the Respondent this case being first of the type a lenient view be taken.

3. Reply and written arguments of the Appellant are on record. It is the case of the Appellants that they had sought information on action taken report and site inspection report. However no information was received by them. So they went to inquire in the Office of Respondent No. 1 but they were told that appropriate steps would be taken. But till date no information was furnished. That the Respondent No. 1 is deliberately and purposely denying and with malafide intention are not giving the said report for the reasons best known to them. That no information is furnished for the last nine months. It is also the case of the Appellants that the site inspection was held on 07.05.2010 between 3:00 to 05:00p.m. by the concerned Junior Engineer, Mr. Suhas Prabhudessai and A.E. Mr, Arshekar of Margao Municipal Council and that they have clinching photographic evidence. That the said J.E. who was earlier handling the file is transferred to Canacona in the month of September, 2010. According to the Appellants action under section 20 of the RTI Act be initiated. Appellants relied on the photographs of site inspection and also on a Central Information Commission ruling, the Xerox copy of which is on record.

4. Reply/submissions of Respondent dated 14.03.2011 are on record. In this reply the Respondent has narrated in detail about letter dated 07.05.2011. That during this period he was holding the Additional charge of Chief Officer of Margao Municipal Council besides his regular charge as Additional Collector-II of South Goa, Margao. That applicants approached him on 24.05.2010 and he put the remark to hold inspection and report that day only. According to him issuing authority cannot revoke/cancel the licence, etc. The Respondent has dealt in detail about cancellation of licence, about various letters in detail, about motive of the Appellants, etc. That there is no intention to cause delay but the Appellants were aware of the progress of this application from time to time.

5. Reply and written arguments of the Appellants dated 17.06.2011 are on record.

6. Written arguments of Respondent dated 06.07.2011 are also on record.

In these written arguments the Respondent for the first time has raised a number of contentions. According to the Respondent No. 1 the present application for penalty is misconceived and not tenable in law as the application dated 28.05.2010 filed by the Appellants was in the name

of firm and not as an individual citizen of India under R.T.I. Act, 2005. Decision of C.I.C. relied. That the Application dated 07.05.2010 is also misconceived, misleading and was not filed under purview of R.T.I. Act and could not have been challenged under the said Act in Appeal before F.A.A. That the Application dated 28.05.2010 is motivated by an action against the Builder for some construction carried by him. The said application does not come under the purview of section 2(j) of the RTI Act as it is in the form of questions and it seeks reasons for not taking action against the builder by the Respondent No. 1. Two decisions are relied. Some factual aspects are also mentioned in the written arguments.

7. I have carefully gone through the records of the case, considered the written arguments filed by the parties and also considered the oral submissions made by the parties.

It is seen that Appellants i.e. Mr. Moraes and R. Pinto vide application dated 28.05.2010 sought certain information. The information is as under:-

“We now request you kindly to furnish us the detail information of what action has been taken by your office on our complaint dated 07.05.2010 in the construction licence under No. A/168/06-09 and if no action is taken, the reason why no action could not be taken till date and what steps and in what manner and when your office desires to address the said complaint. Copy of the Complaint is annexed along with this letter.”

It is seen that information is not provided within the statutory period of 30 days.

Now I shall refer to the contentions raised. There is nothing on record to show about partnership. Again two persons cannot file. But if it is filed information can be given to only one person.

Again the only information which could be given was about action taken. But P.I.O. did not care to answer the same within 30 days. He could very well inform the Appellants about the same within 30 days incorporating all these contentions. To be noted here P.I.O. did not remain present before F.A.A. and order was passed. Again this order is not challenged and the same stands. Therefore, the contentions raised now are of no use. It is too late in the day. Besides, reasons why no action could be taken, what steps, in what manner and when your office

desire to address the said complaint cannot be given. Since P.I.O. was not present the F.A.A. mechanically passed the order.

8. Under R.T.I. Act whatever P.I.O. has to state must be put in reply and that too within 30 days, if not in terms of section 7(2) it is deemed to have been refused the request.

Assuming a particular query question, etc. does not come under the purview of section 2(j) of the R.T.I. Act the Respondent must inform the Appellant within 30 days.

Now request is dated 28.05.2010. According to the Appellants no reply is furnished. However on going through the documents relied by the Respondent a letter dated 23.07.2010 is relied whereby reply is furnished. However this letter is not relied on by Appellants. Appellants contend about date being changed, etc. However, it is not so because by letter dated 26.07.2010 the Appellants admit this letter dated 23.07.2011 and have furnished a detailed reply. However, there is nothing about change of date in the reply dated 26.07.2010. Again this letter was not before First Appellate Authority.

In any case 30 days period gets over on 26.06.2010 and therefore there is delay.

9. I now proceed to consider the question of imposition of penalty upon the Respondent under section 20(1) of the R.T.I. Act. I have come to the conclusion that there is delay in furnishing the information. I have seen from the reply the explanation given by the Respondent. However, under R.T.I. Act delay is inexcusable. Public Authorities must introspect that non-furnishing of information lands a citizen before F.A.A. and this Commission, resulting into unnecessary harassment of a common man which is not permissible. As Shakespeare puts it "In delay we waste our rights in vain: like lamps by day."

Now the application is dated 28.05.2010 and the reply is dated 23.07.2010. There is about 26 days delay after deducting 30 days. R.T.I. Act provides Rs.250/- per day. Therefore, the Respondent is awarded Rs. 6,500/- (26 days x Rs.250/-) as penalty.

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

**ORDER**

The Respondent/P.I.O. is hereby directed to pay a sum of Rs.6,500/- (Rupees six thousand five hundred only) as penalty, imposed on him today. This amount of penalty should be recovered from the salary of the Respondent/P.I.O. in two monthly instalments for the month of November and December, 2011.

A copy of the Order be sent to the Director of Accounts, Margao-Goa for execution and recovery of the penalty from the Respondent. The said amount to be paid in Government Treasury.

The proceedings are accordingly disposed off.

Pronounced in the Commission on this 19<sup>th</sup> day of August, 2011.

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

