

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Penalty Case No. 33/2011
In
Appeal No. 248/SCIC/2010

Shri Octaviano Rodrigues,
12/2684, Marlem Road,
Behind St. Joaquim Road,
Borda,
P.O. Fatorda – Goa

... Appellant/Complainant

V/s.

Public Information Officer,
South Goa Planning & Development Authority,
4th Floor, Osia Complex,
Margao – Goa

... Respondent/Opponent.

Appellant/Complainant in person.
Adv. Shri V. Rodrigues for Respondent/Opponent.

ORDER
(22.08.2011)

1. By Judgment and Order dated 24.03.2011, 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. In pursuance of the same, the Respondent/P.I.O. has filed the Affidavit-in-reply which is on record. It is the case of the Respondent/P.I.O. that the present proceedings ought to be dropped as this is a genuine and bonafide case where the information has been kept ready and probably on account of some unforeseen circumstances the Appellant has been unable to receive the information. That the Appellant vide letter dated 27.01.2010 requested for information and his office had on 16.02.2010 sent him a letter by post bearing No. SGPDA/P/4351/2551/2521/09-10 whereby the Appellant was called to collect the information after paying the requisite fees. That it appears that on 04.10.2010 the Appellant had filed a First Appeal before the First Appellate Authority. That the Respondent inquired with Staff and it has been realized that since the application was addressed to the Chairman, SGPDA, the dealing hand bonafidely believing the same to be a normal

correspondence file and unfortunately the said Appeal did not come for hearing. It is the case of the Respondent that this is a genuine and bonafide case where the information has been kept ready and probably on account of some unforeseen circumstances the Appellant has been unable to receive the information. That the information has been produced even before any order has been passed. That even the addresses which were not in the record have been furnished as the same has not been treated as adversary litigation. That the delay is not deliberate and the bonafides of the Respondent should be taken into account. It is also the case of the Respondent that this is not a fit case for invoking the provision of section 20 of the Act which specifically requires that there should be a refusal of an application or non-furnishing of information (without any reasonable cause). That the information was kept ready and communication was sent on 16.02.2010. In short according to the Respondent this is not a fit case for this Commission to exercise its jurisdiction under section 20.

3. The Appellant has also filed the reply dated 10.06.2011 which is on record. According to the Appellant on the first date of hearing before the Commission the Respondent No. 1 ought to have furnished the information if the same was ready but the same was not filed. According to him the affidavit filed is a false one and that no information was ready. That the Respondent does not state about reminder dated 15.04.2010. That even after First Appeal no information was furnished. According to the Appellant it took about one year to furnish information.

4. Heard the arguments. Appellant submits that written submissions/reply is on record. According to him information furnished after more than one year and that if he had not filed the appeal he would not get the information. According to the Appellant delay ought not to be condoned.

The learned Adv. Shri V. Rodrigues advanced elaborate arguments. According to him on 16.02.2010 letter was sent requesting to collect the information, however, Appellant did not collect the information but preferred the First Appeal. That the Appeal was filed on 04.08.2010. That the letter dated 16.02.2010 has not be rebutted. He referred to para 5, 6 and 7 of the Affidavit. He next referred to section 20 and particularly refusal of information without any reasonable cause. He also referred to Appeal before F.A.A. and also submitted that there was no hearing and no notice to P.I.O. According to the Advocate for Respondent/P.I.O. show cause issued be discharged after considering the bonafides.

In reply Appellant submitted about application dated 27.01.2010 and 15.02.2010. He then referred to reminder dated 15.04.2010 stating that he has not received the information. He also submitted that the wrote to the Chairman on 04.08.2010 by Registered A/D acknowledged on 08.08.2010. According to him he never received letter dated 16.02.2010.

5. 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 is dated 27.01.2010 and another application is 15.02.2010. Admittedly there is delay as information was furnished before this Commission.

According to the Respondent/P.I.O. he sent a letter dated 16.02.2010. According to the Appellant he has not received the same. I have seen the said letter. The same is not on the letter-head of the SGPDA. Date and reference are in the handwriting. I have seen the Register also. This letter appears to be sent by ordinary post. Normally P.I.O. should ensure that the same is received by the Appellant. We take that the same was sent. However by letter dated 15.04.2010 addressed to P.I.O. the Appellant asks to expedite of furnishing him the information called for. This was in fact a reminder. If the letter dated 16.02.2010 was sent, P.I.O would certainly say that letter was sent and it was not collected by the Appellant. Again First Appeal was filed. In para 5 of the affidavit-in-reply it is mentioned that it appears that Appellant had filed First Appeal before F.A.A. and further states that he inquired with the Staff and it has been realized that since Application was addressed to the Chairman, SGPDA However, the P.I.O. did not bother even to inquire about furnishing information. If the letter dated 16.02.2010 was really sent P.I.O. would repeat and reiterate that Appellant failed to collect it.

Again, the present Appeal was filed on 25.10.2010 i.e. received by post. The matter was posted on 20.12.2010. Normally the Respondent/P.I.O. would have attended and submitted that information was kept ready and the same was not collected and would have produced the same before the Commission. However this is not done. Again matter was posted on 07.02.2011. On this day also information that was kept ready was not produced. However information was furnished by letter dated 11.02.2011 in respect of application dated 15.02.2010 and not 27.01.2010. The same is produced on 25.02.2011.

It is pertinent to note here that it is on record (reply dated 25.02.2011 in Appeal No. 248/SCIC/2010) that on 15.02.2010 the Appellant personally presented the application dated 15.02.2010 and he personally inquired through their Head Clerk about application dated 27.01.2010 wherein she cited ignorance of any such matter.

If the P.I.O. was diligent enough he would have acted on reminder dated 15.04.2010. In view of this factual position it is not possible to hold that information was kept ready and there is no fault on the part of P.I.O.

In my view P.I.O. failed to furnish the information within statutory period. P.I.O. further failed to prove his bonafides by neglecting to act on reminder dated 15.04.2010 and further by producing the information during the first hearing on 20.12.2010 before this Commission.

6. I not proceed to consider the request of imposition of penalty upon the Respondent/P.I.O. under section 20 of the R.T.I. Act. The penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. The word 'reasonable' has to be examined in the manner, which a normal person would consider it to be reasonable. I have come to the conclusion that there is delay. If letter dated 15.04.2010 i.e. reminder, is considered, there is delay. If service of notice by this Commission is considered, there is delay. From whatever angle you may look at, there is delay. Under R.T.I., delay is inexcusable. Public Authorities must introspect that non-furnishing of information lands a citizen before First Appellate Authority and also before this Commission resulting into unnecessary harassment to a common man which is not permissible and not tolerable. Such an act blurs the grace and sometimes causes injury to society. Therefore, some sort of penalty keeps in curing these social problems. R.T.I. Act provides Rs. 250/- per day. However, considering the pros and cons of the matter, imposition of penalty of Rs. 12,500/- (Rupees twelve thousand five hundred only) would meet the ends of justice.

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

ORDER

The Respondent/P.I.O. is hereby directed to pay Rs.12,500/- (Rupees twelve thousand five hundred only) as penalty imposed on him

today. This amount of penalty should be recovered from the salary of P.I.O./Respondent in three monthly instalments for the month of October, November and December, 2011 by the office of South Goa Planning & Development Authority, Margao-Goa. The said amount to be paid in Government Treasury.

A copy of the Order be sent to the Director of Accounts, South Branch, Margao-Goa.

The proceedings are accordingly disposed off.

Pronounced in the Commission on this 22nd day of August, 2011.

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

