

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Penalty Case No. 20/2010
In
Appeal No. 147/SCIC/2010

Mr. I. S. Raju,
H. No. 706-A. Acsona Benaulim,
Salcete - Goa

... Appellant/Complainant

V/s.

Public Information Officer,
Department of Town & Country Planning,
South Goa,
Margao – Goa

... Respondent/Opponent.

Appellant/Complainant in person.
Respondent/Opponent in person.

ORDER
(30.09.2011)

1. By Order dated 27.08.2010, 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. In pursuance of the same, the Respondent/P.I.O. has filed the reply which is on record. It is the case of the Respondent that P.I.O. received the application dated 19.08.2009 from the Appellant for issue of certified copy of revised plans and N.O.C. in the matter of N.O.C. for subdivision in the property under Sy. No. 157/1 (part A) in Village Benaulim, Salcete. That the P.I.O. informed the Appellant vide letter dated 20.10.2009 that the information is ready and was accordingly requested to collect the copies of the documents as sought by him. That it was, however, inadvertently typed on the same letter as "Encl: as above." Which went unnoticed by the P.I.O. That vide same letter since the applicant was called to collect the Photostat copies, it is quite evident that the enclosures were not put up alongwith the said letter and that mentioned of "Encl: as above" was purely a mistake which is highly regretted by the P.I.O. It is the case of the Respondent that the applicant vide his letter dated 02.11.2009 requested to forward the information

sought by post at his residential address. That the said letter was marked to the dealing hand Shri Subhash Naik (Planning D'man) for further processing of the request and to place the documents sought before the P.I.O. for onward furnishing the same to the applicant by post. That the said letter remained with the said dealing hand without processing and in the meantime the said dealing hand was transferred to Ponda Taluka office and was accordingly relieved with effect from 30.11.2009. That on verification it was found that the dealing hand did not hand over properly the papers pending with him for which reason, the matter could not be dealt further by the next dealing hand. That no sooner the above matter was brought to the notice of the P.I.O. by way of appeal of the appellant the P.I.O. immediately gathered the necessary information and accordingly furnished the required information to the applicant by registered post dated 08.09.2010. It is further the case of the Respondent that the P.I.O. had genuine interest in furnishing the information to the applicant and hence the availability of the same was communicated to the Applicant vide letter dated 08.09.2010. That if the Applicant had shown interest to collect the information by visiting the office, the information as sought by him could have stood furnished to him, which did not happen as the applicant wished to obtain the same by post which practice is not generally seen. That the P.I.O. did not deliberately delay furnishing of the information by post as the same was not brought to his notice by the dealing hand who acted as A.P.I.O. in the present case. That the P.I.O. also could not keep track of the applicant's request as he remained extremely busy in handling the office matter including disposal of several other applicants under RTI Act, 2005. It is further the case of P.I.O. that since delay is caused in furnishing the information of the same by P.I.O. the same may kindly be condoned, as also the undersigned P.I.O. was not solely responsible for the same. That the P.I.O. however, wishes to bring on record that he deals with several applications received under R.T.I. Act with utmost sincerity so that the very purpose of RTI Act is served and hence the present case of delay may be dealt leniently and the delay caused may kindly be condoned accordingly.

3. The Appellant states in his reply/letter that there is glaring negligence and delay of over 10 months and that a fine/penalty of Rs.25,000/- be levied on the P.I.O./Respondent herein. The reply to P.I.O's written explanation is also filed by the Appellant and the same is

on record. The Appellant denies the case of the Respondent as set out in the reply.

4. Heard the Appellant and the Respondent No. 1 and perused the records.

It is seen that the application seeking information is dated 19.08.2009. No reply was furnished within 30 days. So the Appellant preferred the Appeal before First Appellate Authority. By Order dated 27.10.2009 the Respondent PIO was directed to furnish the information. By letter dated 29.10.2009 the P.I.O. requested the Appellant to collect the Photostat copies of the documents as sought by him under right to Information Act. This was in tune with the order of F.A.A. However, the P.I.O. added "Encls: As above" meaning the information is furnished. By letter dated 02.11.2009 the Appellant informed the P.I.O. that no such enclosures have been attached to the letter and further requested to forward the same by post on an immediate basis. It appears that the same has not been furnished. Admittedly there is delay in furnishing information. There is also some sort of negligence on the part of the Public authority as such.

According to the P.I.O. the letter dated 02.11.2009 was marked to the dealing hand Shri Subhash Naik (Planning D'man) for further processing of the request and to place the documents sought before P.I.O. for onward furnishing the same to the applicant by post. However, the same remained with the said dealing hand without processing. And in the meantime he was transferred.

Admittedly there is delay and there is no dispute on this count. The Respondent/P.I.O. attributes this delay to the dealing hand as can be seen from the reply. Order of F.A.A. was in fact a reminder to the Respondent/P.I.O. to furnish the information. P.I.O. indeed acted by letter dated 29.10.2009 but again committed mistake as pointed hereinabove. Under section 5(4) of the R.T.I. Act a PIO can take assistance of any person/officer and under section 5(5) a person whose assistance has been sought by P.I.O. in discharging his duty under RTI Act shall be equally responsible. This section when read with section 20(1) empowers the Commission to impose penalty on equally capable officers.

5. I now proceed to consider the question of imposition of penalty upon the Respondent under section 20 of the RTI Act, I have come to the conclusion that there is delay in furnishing information. Letter dated 29.10.2010 was sent after 40 days. Explanation given by the Respondent PIO in reply even if it is considered, the delay under R.T.I. is inexcusable. Public Authorities must introspect that non-furnishing of information lands a citizen before First Appellate Authority and also this Commission resulting into unnecessary harassment of a common man which is abhorred by society in general. Therefore some sort of penalty helps in curing this social grief. In the facts and circumstances of this case I feel the penalty of Rs.12,500/- (Rupees twelve thousand five hundred only) would meet the ends of justice.

This amount is to be paid by the office of Senior Town Planner, Town and Country Planning Department, Margao/Public Authority. The said Senior Town Planner or any other senior officer appointed by him to conduct inquiry about delay and to fix the responsibility of delay amongst these above mentioned officers, i.e. P.I.O. and dealing hand, Subhash Naik and accordingly apportion the said amount between them and recover the same from them. In any case inquiry fixing responsibility about delay is to be conducted. If anyone is responsible the whole amount be recovered from the concerned official. It is made clear that the penalty imposed is not on the Public Authority. The Public Authority to fix responsibility for delay and then recover the said amount from concerned officer.

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

ORDER

A penalty of Rs.12,500/- (Rupees twelve thousand five hundred) is imposed to be paid by the office of Senior Town Planner, Town and Country Planning Department, Margao/Public Authority from the funds of Public Authority. It is open to the Senior Town Planner to conduct inquiry to fix the responsibility of delay amongst these officers and accordingly apportion the said amount of penalty amongst them as observed in para 5 above. The said amount be paid in the Government Treasury by December 2011. The officer conducting the inquiry to submit the compliance report as early as possible preferably within two months from the date of receipt of this Order.

A copy of the Order be sent to the Director of Accounts, Margao-Goa, for recovery of penalty as mentioned herein above.

Penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 30th day September, 2011.

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