

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Penalty Case No. 54/2010  
In  
Complaint No. 108/SCIC/2010

Smt. Sanyogita Shetye  
Through her Power of Attorney Holder  
Shri Kashinath Shetye,  
R/o. Bambino Bldg.,  
Alto Fondvem,  
Ribandar - Goa

... Appellant/Complainant

V/s.

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

... Respondent/Opponent.

Shri Kashinath Shetye representative of the Complainant.  
Opponent in person.

**ORDER**  
**(30.09.2011)**

1. By Order dated 24.11.2010, this Commission issued notice to the Public Information Officer (P.I.O.)/Opponent 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 P.I.O./Town Planner, Town and Country Planning Department, South Goa, Margao has filed the reply. It is the case of the Opponent that the Complainant vide her letter dated 30.06.2009 had applied under Right to Information Act, 2005 information pertaining to circular of Chief Secretary, No. 3/5/2009-ARD dated 09.06.2009. That the said application was made to the PIO, Town and Country Planning Department, Quepem-Goa. That the Dy. Town Planner forwarded the application of the Complainant to the PIO, Margao, being the designated authority for issue of information under RTI Act stating therein that his office has not received any circular of C.S. bearing No. 3/5/2009-ARD dated 09.06.2009. That the PIO, Town and Country Planning Department, Margao then requested Dy. Town Planner, Quepem vide his letter dated 14.07.2009 whether the information sought at Sr. No. 1 to 7 of letter dated 30.06.2009 of the Complainant was available in his office, so that the same information could be issued to the Complainant.

That the PIO, Town and Country Planning Department, Margao then received the notice of the First Appellate Authority, Panaji to remain present in his office on 11.08.2009 as Appeal was filed by the Complainant before him which appeal was set aside and dismissed. That subsequently in compliance to the letter dated 14.07.2009 of the PIO, Town and Country Planning Department, Margao, the Dy. Town Planner, Quepem forwarded the letter dated 13.08.2009 containing the required information as sought from him. That in the said letter the Dy. Town Planner, Quepem, also mentioned that the complainant may be informed to visit his office for inspection of all the concerned subject files/register available in his office. It is the case of the PIO/Opponent that as per the office procedure, the RTI matters are marked to the Technical Staff having the jurisdiction over the areas as assigned to them for further processing of the same who then acts as Assistant PIOs in the matter/cases marked to them. That the said letter dated 13.08.2009 which was received by PIO, Town and Country Planning, Margao was marked to the dealing hand, Mr. Premanand Bhomkar, who had acted as Asst. PIO in the present case. However, the information furnished by Dy. Town Planner, Quepem inadvertently remained with Shri Premanand Bhomkar, Planning Asst, without further processing which Shri Bhomker explained, has happened due to his extreme busy schedule. It is further the case of the Opponent/PIO that he learnt about the pending matter in his office, by virtue of the Appeal filed by the Complainant, he immediately acted upon in the matter and called for the information as supplied by Deputy Town Planner, Town and Country Planning Department, Quepem, from Shri Bhomker, Planning Assistant. That after the information was gathered from the dealing hand Shri Bhomker the PIO, Margao vide his letter dated 19.04.2010 then forwarded the same information received from Dy. Town Planner, Quepem, back to his office, as the Dy. Town Planner, Quepem, was then designated to be the authority to issue the information under R.T.I. pertaining to the matters addressed to Quepem Taluka Branch office. That on 10.05.2010 the PIO, Quepem furnished the required information to the Complainant. That the Opponent/PIO, Town and Country Planning, Margao has clearly acted within the provisions of RTI Act and attempted to furnish information to the Complainant by making necessary correspondence with the office of Dy. Town Planner, Quepem and the delay if any was due to correspondence between two officers. That delay was also caused as the letter dated 13.08.2009 of Dy. Town Planner remained inadvertently with Shri Bhomker without further processing whereby PIO, Margao could not

act further in furnishing the information. That the explanation of Shri Bhomker is also mentioned in the reply. In short, according to the Opponent delay caused is out of misunderstanding at the hands of dealing hand and the same was purely unintentional and without any malafide intentions and which delay has to be attributed to the tremendous workload handled by the PIO, Margao and his subordinate Staff including Shri Bhomker, who looks after planning matters of several coastal Village of Salcete Taluka. According to the Opponent in view of this position penalty proceedings be dropped.

3. Heard Shri Kashinath Shetye, representative of the Complainant and the Opponent and perused the records.

It is seen that the application is dated 30.06.2009. The information is furnished by letter dated 10.05.2010. Admittedly, there is delay. It appears from the record that Quepem office sent the information by letter dated 13.08.2009. However the same remained inadvertently with Shri Bhomker. Admittedly there is delay of about 9 months in furnishing the information. P.I.O. attributes this to the process of communication between Quepem to Margao and also to the dealing hand. However it is a fact that there was delay at every step. According to the PIO he is not responsible for delay but he was handicapped on account of dealing hand, etc. as mentioned by him in his reply.

Under section 5(4) of the RTI Act a PIO can take assistance of any officer and under section 5(5) a person whose assistance has been sought by PIO 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.

4. Now I shall proceed to consider the question of imposition of penalty upon the Opponent/PIO under section 20 of the RTI Act. Regarding PIO, I have observed above. I have come to the conclusion that there is delay. Under RTI delay is inexcusable. Public Authorities must introspect 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 unacceptable and legally impermissible. Sometimes it causes grievous injury to society. Therefore, some sort of penalty helps in curing this social grief. In the factual backdrop of this case, I feel imposition of penalty of Rs.10,000/- (Rupees ten thousand only) would meet the ends of justice.

This amount is to be paid by the office of the 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 the officers as mentioned hereinabove. (P.I.O, P.IO-Quepem and dealing hand/and/or Premanand Bhomker) and accordingly apportion the said amount among them and recover the same from them. In any case inquiry fixing responsibility about delay is to be conducted. It is made clear that the penalty imposed is not on the Public Authority. But in the factual backdrop it is to be ascertained by the concerned officer as to whether P.I.O. Margao or P.I.O. Quepem or dealing hand is responsible. In case all are responsible, the said amount is to be recovered from them.

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

### **ORDER**

A penalty of Rs.10,000/- (Rupees ten thousand only) is imposed 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 the officers as mentioned in para 4 hereinabove.

The said amount be paid in Government Treasury by December, 2011. The officer conducting inquiry to submit the compliance report as early as possible preferably within two months from the date of receipt of order.

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

Penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 30<sup>th</sup> day of September, 2011.

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

