

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Penalty No. 20/2011

In

Complaint No. 504/SIC/2010

Shri Jacinto Sequeira,
Bonglo de Jacinto,
Tivim, Auchit Vaddo,
Bardez – Goa

... Complainant.

V/s.

Public Information Officer,
Administrator of Comunidades,
North Goa,
Mapusa – Goa

... Opponent.

Complainant in person.

Adv. Shri K. H. Bhosale for Opponent.

ORDER
(27.10.2011)

1. By Order dated 01.02.2011, this Commission issued notice to Opponent No. 1/P.I.O to show cause why penal action should not be taken against him for causing delay in furnishing the information.

2. The P.I.O./Opponent No. 1 has filed the reply which is on record. It is the case of the P.I.O/Opponent no.1 that the Application from the applicant/Complainant was received on 27.04.2010. That as the information was not available in the office of P.I.O., within 4 days the assistance under Section 5(4) of the R.T.I. Act was sought from the Registrar/Attorney of Comunidade of Thivim. That on receipt of the required information from Comunidade of Tivim, the applicant/Complainant was immediately informed by letter reference No. ACNZ/RTI/114/10-11/800 dated 16.06.2010 to collect the information. However, the applicant preferred an appeal. According to the Opponent No.1 delay caused is not intentional.

3. Heard the arguments. The Complainant as well as Opponent No. 1 also submitted written submissions which are on record.

According to Complainant Appellate Authority failed to impose penalty. That the information is available in the minutes book of the Comunidade and can be photocopied in five minutes. That the information was not to be sourced from different agencies. According to the Complainant penalty should be imposed.

According to the Opponent the request for information was "Voters List of Comunidade election of Tivim Village held on 17.01.2010 under R.T.I.-2005". That Comunidade is autonomous body governed by Code of Comunidade as per Article 1, which categorically states that the Comunidades or "Gauncaris" existing in the District of Goa shall be governed by byelaws contained in the Code and specially by private law of each of them. That the subject matter was absolutely incorrect and confusing. That the Opponent No. 1 is the Administrator of Comunidades North Zone and responsible for periodical elections pertaining to respective Comunidades and not voters list of any particular village or election to any village. It was confusing request of the complainant/applicant to provide voters list of Tivim village which is not in the record of the P.I.O. yet the Opponent No. 2 under reference dated 30.04.2010 issued the Memorandum to the Registrar/Attorney of Comunidade de Thivim by seeking assistance under Section 5(4) of the R.T.I. Act to provide necessary information. That the Article 49 speaks that "in case of irregularities in the election, any component of Comunidade with right of voting may appeal to the Administrative Tribunal within 5 days. Article 49 does not whisper about any voter's list and as such issue of any certified copies under Article 49 does not arise. That irrespective of the matter pertaining to Comunidade of Tivim who is holding its record, Opponent No. 2 with sincere interest to provide the necessary information, personally followed the matter further and reminder letter dated 07.06.2010 was sent to the Registrar/Attorney of Comunidade of Tivim, if failed to supply information they shall be considered as Deemed P.I.O. under Section 5(5) of the R.T.I. Act. That on 10.06.2010 the Complainant was informed that information was ready and to collect the same. He also refers to the Order of F.A.A. That there is no delay on the part of P.I.O.

4. On 27.05.2011 notice was issued to the Attorney of Comunidade of Tivim, through Administrator of Comunidades North Zone and copy of reply dated 15.04.2011 was also sent. He was called to appear before Commission. However he did not appear nor refuted that he was deemed P.I.O.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties.

It is not in dispute that information was sought vide application dated 27.04.2010. According to Opponent/P.I.O. the Complainant was called to collect information by letter dated 10.06.2010. According to Complainant the information was received on 14.06.2010. Now considering the date 10.06.2010 there is delay of about 14/15 days. There is no dispute on this count. The only bone of contention is that according to Opponent/P.I.O. the information was not with them and he is not responsible for delay. This is also reflected in their reply. P.I.O. right from the beginning states that Escrivao/Attorney did not furnish the information.

Under Section 5(4) of the R.T.I. Act a P.I.O. can take assistance of any officer and under Section 5(5) a person whose assistance has been sought by P.I.O. in discharging his duty under R.T.I. Act shall be equally responsible. This Section when read with Section 20(1) of the R.T.I. Act empowers the Commission to impose penalty on equally capable officers.

It is pertinent to note that notice was issued to Escrivao/Attorney of the Comunidade to present his view, however, he did not remain present. Therefore, the proposition canvassed by Opponent/P.I.O. or his Advocate is uncontroverted. Hence, this Commission can proceed with the proceedings.

6. Now I shall proceed to consider the question of imposition of penalty under Section 20 of the R.T.I. Act. Regarding P.I.O. he is not responsible for delay as information was not with him as observed hereinabove. Admittedly there is delay. Under R.T.I. delay cannot be excused except under certain circumstances. It is high time that Public Authorities give a thought to the fact 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 socially abhorring. Therefore some sort of penalty helps in curing this social grief. Under R.T.I. penalty is Rs.250/- per day. However in the factual matrix of this case, I am inclined to take a lenient view of the matter. I feel that imposition of penalty of Rs.2500/- (Rupees two thousand five hundred only) would meet the ends of justice.

7. Complainant contends that First Appellate Authority has not levied penalty. Under R.T.I. there is no provision to that effect.

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

ORDER

The Deemed P.I.O./Escrivao, Attorney of Comunidade of Tivim, is hereby directed to pay Rs.2500/- (Rupees two thousand five hundred only) as penalty imposed on him today. This amount of penalty should be recovered from the deemed P.I.O./Escrivao/Attorney of Comunidade of Tivim by end of February, 2011.

A copy of the Order be sent to Administrator of Comunidades so as to assist in recovery of the said amount. The said amount be paid in Government Treasury.

A copy of this Order also be sent to Deemed P.I.O., Escrivo, Attorney of Comunidade of Tivim.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 27th day of October, 2011.

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

