

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Penalty No. 42/2010
In
Appeal No. 84/SCIC/2010

Shri Prakash S. Pednekar,
Nagesh Apartment, F-3, 1st Floor,
Nr. State Bank of India,
Mangeshi – Goa ... Appellant.

V/s.

- 1) State Public Information Officer,
Mr. Bhushan Savoikar,
Mamlatdar of Pernem Taluka,
Pernem – Goa ... Respondent No. 1.
- 2) First Appellate Authority,
Mr. R. D. Mirajkar,
Dy. Collector/S.D.O.,
Pernem Sub Division,
Pernem – Goa ... Respondent No. 2.

Appellant in person.

Respondent No. 1 in person.

ORDER
(12.10.2011)

1. By Order dated 08.11.2010 this Commission issued notice under Section 20(1) of the Right to Information Act, 2005 to Respondent No. 1/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 notice the Respondent No. 1/P.I.O. has filed the reply which is on record. In short it is the case of the Respondent No. 1 that on 15.10.2009 the appellant made an application to Respondent No. 1 for furnishing certain information. That after searching in the office it was found that the information was not available in the office. That the appellant was called in the office so as to clarify the matter and after clarification, again it was found that such information was

not available in the office. That the Appellant filed the application before the First Appellate Authority and thereafter before this Commission. That inspection was given by order of the Commission and it was found that the information sought was not available. That vide order dated 08.11.2010 the Commission has ordered inquiry regarding misplacement of the said file/information as the files are not available in the office. That from this it is very clear that the information sought by the Appellant is not available in the office. Hence the question of delay does not arise. That Respondent No. 1 is a P.I.O. and has taken efforts to search/furnish the information. The same records are not available in the office and therefore the said information was not furnished. That the action of the Respondent No. 1 is not deliberate or intentional and the information cannot be furnished for the reasons beyond the control of the Respondent No.1 and hence no penalty can be imposed on the Respondent No. 1. According to Respondent No. 1 show cause notice is to be dropped.

3. Heard both sides. The Appellant filed written arguments. The Respondent/P.I.O. states that his reply be considered as arguments. Respondent also relies on Judgment of Hon'ble High Court of Bombay At Goa in Writ Petition No. 205/2007 dated 17.09.2009 in A.A. Parulekar *v/s.* Goa State Information Commission & Anr.

In short it is the case of the Appellant that after filing the application he was never called in the office of Respondent for any clarification whatsoever. That it was only after the appeal was filed that Respondent No.1/P.I.O. was called for clarification. That the P.I.O./Respondent No. 1 did not communicate to the Appellant about any missing/misplacement of the document within the stipulated time of thirty days which clearly points out the malafide intention of the P.I.O. According to him fine should be imposed.

4. I have carefully gone through the records of the case and also considered the arguments of the parties and also considered the ruling on which Respondent placed reliance.

It is seen that information was sought vide application dated 15.10.2009. No reply was furnished within 30 days. Hence, the Appellant preferred the First Appeal. During Appeal it was submitted that no information was furnished as the same was not traceable. According to P.I.O. vide letter No. MAM/PER/RIA/410/2009/1439 dated 23.11.2009 the Appellant was called upon to appear before the office of Respondent No.1/P.I.O. to give clarification. The Appellant admits that he was called after filing the Appeal. There is nothing to show that Appellant went to clarify.

Normally within 30 days the P.I.O. should inform the information seeker about the outcome of his application even if information is not available. In the instant case it has not been done. First Appellate Authority also mentions about the same in the order dated 23.12.2008 that party is to be informed in time even if the information is not available.

Considering all these aspects according to me delay is of few days i.e. starting from 14.11.2009 to 22/23.11.2009 only i.e. about 7-8 days only.

5. Now it is to be seen about imposition of penalty upon the Respondent under Section 20 of the R.T.I. Act. Even though the Respondent has given explanation the fact remains that there was delay in furnishing the reply. I have already come to the conclusion that delay is of about 7-8 days. However, in the factual matrix of this case I am inclined to take a lenient view of the matter. In my view the imposition of penalty of Rs.1500/- (Rupees one thousand five hundred only) would meet the ends of justice.

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

ORDER

The Respondent/P.I.O. is hereby directed to pay Rs.1500/- (Rupees one 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 for the month of February 2012 by the Director of Accounts.

A copy of the order be sent to the Director of Accounts, Panaji-Goa for execution and recovery of penalty from the Respondent/P.I.O. The said amount be paid in Government Treasury.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 12th day of October, 2011.

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

