

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Penalty Case No.16/2010  
In  
Appeal No.107/SIC/2009**

Shri Harihar V. Chodankar,  
R/o.D-5, 2<sup>nd</sup> Floor, Asilo Hospital,  
Doctors' Quarters, Feira Alta,  
Mapusa, Bardez - Goa

... Appellant.

V/s.

1. The Public Information Officer,  
Administrator,  
Office of the Administration of  
Comunidade of North Zone,  
Near Court, Mapusa, Bardez-Goa
2. The First Appellate Authority,  
Additional Collector – I (North),  
Collectorate,  
North Goa,  
Panaji – Goa

... Respondents

Appellant absent.

Respondent absent. Deemed P.I.O. absent

Adv. R. Pednekar for respondent

**ORDER**  
**(07/12/2011)**

1. By judgement and order dated 03/02/2010, the Hon'ble S.I.C. (Shri Afonso Araujo) ordered as under :-

“The appeal is partly allowed. The Deemed Public Information Officer, Attorney of Comunidade of Serula to provide information to the appellant to the request dated 20/05/2009 at Sr. No.1 namely copies of certificates of temporary possession in respect of

plots under survey No.176/0 only and at Sr. No.2(a) and (b), within the period of 20 days and report compliance on 01/03/2010.”

It is seen from records that by letter No.GSIC/App/107/SIC/2009/1389 dated 8/2/2010 the copy of the order was sent to deemed P.I.O./Attorney of Comunidade of Serula.

2. Since 1/3/2010 was declared a public holiday the matter was taken on 2/3/2010. Appellant was present but deemed P.I.O./Attorney was absent. Again notice was issued. It is seen that after some applications/hearing etc the order was passed on 1/7/2010. The relevant part is as under :-

“Hence, the attorney of Comunidade of Serula – Deemed Public Information Officer to provide the information at Sr. No.1 of the request dated 20/5/2009 and to file reply on the show cause notice for not complying with the order of this Commission dated 03/02/2010.

The Deemed Public Information Officer to file reply on 15/07/2010”.

3. The said attorney has filed the reply to the notice issued by the Commission and the said reply is on record. It is the case of the said Attorney that the order dated 03/02/2010 has been passed by this Commission without issuing any notice to the attorney, Comunidade of Serula and therefore, the order has been passed without affording an opportunity to the attorney, Comunidade of Serula before being considered to be deemed P.I.O. and that he was required to be heard as to why the attorney should not be held to be a deemed Public Information Officer. He refers to review application and prays that notice be withdrawn.

4. I have heard the appellant as well as Adv. Shri P. Kamat for the attorney Comunidade de Serula. I have perused the records of the case.

At the outset, I must state that it is unfortunate that the matter is pending for a very long period of time.

It is pertinent to note that Show Cause that was issued was in fact for not complying with the order. However the said attorney did not file any reply to that effect. Instead he challenged the order on the ground that he was not given an opportunity of hearing etc. It is seen that Hon'ble S.I.C. has passed the order and has already considered the objections raised before him. Therefore if aggrieved, the said attorney ought to have agitated the issue before appropriate forum. In the factual matrix of this case, this commission has no power to review the order or consider any submission that is advanced now. In other words this Commission cannot re-open the issue of his predecessor Hon'ble S.I.C.

The order passed has not been set aside and therefore the same stands. Hence the same should be complied with in true spirit. Normally in such a situation the said attorney should have furnished the information as sought and also should have replied to the show cause.

5. Adv. for the said attorney has submitted that he cannot be deemed P.I.O. and also relied on the Judgement passed by this Commission in Complaint No.13 of 2008. I have gone through the said order. However this Commission is unable to consider at this stage as the order was already passed by the Hon'ble S.I.C. and this Commission has no power to review the order.

6. As pointed above, so far no information is furnished though much time is passed. The order passed by this Commission has not been complied with. The said attorney, therefore, is liable for punishment for not complying the order in time. However, since

the said attorney has not filed any reply in the ends of justice. I am still giving him one chance of being heard on the quantum of punishment/fine/penalty as contemplated under R.T.I. Act in terms of Sec.20(1).

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

**ORDER**

The Attorney of the Comunidade of Serula is hereby directed to furnish the information to the appellant vide his application dated 20/5/2009 as mentioned in the order dated 03/02/2010, within 15 days from the receipt of this order.

The said Attorney of Comunidade of Serula to remain present and, if wishes, to say why heavy penalty should not be imposed on him. In case he remains absent the penalty will be imposed without any further notice

Posted on 13/03/2012 at 10.30 a.m.

Pronounced in the Commission on this 7<sup>th</sup> day of December, 2011

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

