

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Penalty No.55/2011
In
Complaint No. 69/2009**

Mr. Kashinath Shetye,
Bambino Bldg., Alto Fondvem,
Ribandar,
Tiswadi - Goa

... Complainant.

V/s.

Public Information Officer,
Executive Engineer,
Electricity Department,
Vidyut Bhavan,
Panaji – Goa

...Opponent.

Complainant in person.

Opponent in person.

ORDER
(08.02.2012)

1. By Order dated 19.08.2011 this Commission issued notice under Section 20(1) of the Right to Information Act, 2005 against the Public Information Officer (PIO), Executive Engineer, Electricity Department, Vidyut Bhavan, Panaji to show cause why penalty action should not be taken against him for causing delay in furnishing information.

2. Accordingly the PIO/Opponent, Executive Engineer, Electricity Department, has filed the reply. It is his case that Shri Kashinath Shetye submitted an application dated 09.06.2009 under Right to Information Act, 2005 seeking information pertaining to increase of load without permission in various Government offices. That since information sought by Shri Shetye was voluminous and pertaining to various Government Departments the application was transferred to various department vide letter dated 10.06.2009 under section 6(3) of the RTI Act and to other PIOs of concerned Electricity Department vide letter dated 10.06.2009 under section 5(4) of RTI Act. That all the PIOs of Government Departments were also requested to furnish the information desired to the Complainant directly. That the information received from some of the PIOs of the Divisions of Electricity

Department was handed over to Shri Shetye vide letter dated 08.07.2009 after payment of Rs.52/-. That the Opponent i.e. Executive Engineer handles the procurement work of departments and the information desired by the applicant was not in the custody, Procurement Section of SPIO and hence the application was transferred to respective department including Electricity Department. It is the case of the Opponent that applicant cannot be aggrieved by the action taken by the SPIO who has transferred the RTI application to various departments for compliance and the delay caused in furnishing the information by PIO of Asst. Engineer, Sub-Division, Panaji,. That according to the Opponent penalty proceedings be dropped as action desired under rules of RTI have been taken.

3. Heard the Complainant as well as the Opponent and perused the records.

It is seen that originally the Complaint bearing No. 69/2009 was filed against PIO, Jt. Chief Electoral Officer, FAA, as well as deemed APIO, Asst. Chief Electoral Officer, Panaji-Goa. It is seen that the Complainant had filed an application dated 09.06.2009 before PIO, the Executive Engineer (Procurement), Electricity Department, Vidyut Bhavan. By letter dated 12.06.2009 the same was transferred to Jt. Chief Electoral Officer. By letter dated 22.06.2009 the Jt. Chief Electoral Officer informed the Opponent, i.e. Executive Engineer, Office of Chief Electrical Engineer that the information sought by Shri Sheyte is not available in their office. By letter dated 16.11.2009 Asst. Engineer, Electricity Department, Panaji informed the Chief Electoral Officer that detailed information was furnished. It appears that the same was furnished to the Complainant. It appears that information was not with the Opponent herein. However, it was collected from different sources as the information was not at one place. The Opponent, Executive Engineer, states how he had to procure, etc.

The Complainant during the course of arguments states that he is convinced and that he has no grievance.

4. Admittedly, there is delay. However, the Opponent/Executive Engineer/PIO had to seek the said information from various sources and earnest efforts were made to comply with the request.

Under Section 20(1) of the R.T.I. Act the information Commission must satisfy itself that P.I.O. has without reasonable cause:

(i) refused to receive an application; (ii) not furnished information within the specified time frame; (iii) malafidely denied information, (iv) knowingly given incorrect, incomplete or misleading information and (v) destroyed information/obstructed giving of information.

The case before me is on a different footing. Here, there is some delay in furnishing information which P.I.O. had to collect and not the existing information.

I have perused some of the rulings of C.I.C. as well as of some State Information Commissions. The Commissions considered various aspects and held that in view of earnest efforts put by P.I.O., the delay caused becomes excusable and accordingly penalty was not imposed.

In S.P. Arora, S.P.I.O.-cum-Estate Officer, HUDA v/s. State Information Commission, Haryana and Others 2009 (1) ID (Punj. & Hry. High Court) it is observed as under:-

“8. The sequence of events would show that the information was sought on 29.01.2007, when the file of the plot in question was lying with the Bank. The file was received back on 22.02.2007. The same was received on 30.03.2007 and information was supplied on 10.04.2007. The penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. The word ‘reasonable’ has to be examined in the manner, which a normal person would consider it reasonable. The right to seek information is not to be extended to the extent that even if the file is not available for the good reasons still steps are required to be taken by the office to procure the file and to supply information. The information is required to be supplied within 30 days only if the record is available with the office. The inference cannot be drawn of the absence of reasonable cause, for the reason that file could have been requisitioned back from the Bank. Since file was not available with the office the inference drawn does not seem to be justified.

9.

10.

11. In view thereof, we are of the opinion that the Order of imposition of penalty on the petitioner not sustainable in law. Consequently Writ Petition is allowed. The impugned order passed by State Public Information Commission is set aside.”

In Shri Surinder Pal (Advocate) Ludhiana v/s. P.I.O. O/o. Commissioner M.C. Ludhiana [2008]¹ ID 227 (SIC PG) it was observed as under:-

“4. Perusal of the contents of the affidavit dated 20.08.2007 filed by Sh. K. J. S. Kakkar, Medical Officer, M.C. Ludhiana does show that Respondent has been quite diligent in its efforts to procure, compile and deliver the information to the Complainant. We are satisfied that the delay in the delivery of information is neither willful nor deliberate. This is, therefore, not a fit case for the imposition of penalty under Section 20 of R.T.I. Act, 2005, or the award of any compensation to the Complainant

In Brijesh Barthwal, Vikas Nagar, Lucknow v/s Geological Survey of India, Northern Region, Lucknow (Appeal No. CIC/AT/A/2006/00031 dated 10.07.2006) CPIO submitted that the delay was caused by the logistic of collecting the information from several sources, his absence from office on leave and lack of familiarity with the processes under the R.T.I. Act. The Commission observed that the P.I.O. could have kept the appellant periodically posted with the progress of the information gathering process. The Commission held that the reasons for delay seem to meet the test of “reasonable cause” under Section 20.

5. The penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. The word “reasonable” has to be examined in the manner which a normal person would consider it to be reasonable. Normally, under RTI the available information is to be furnished. In any case the delay in furnishing the information appears to be neither willful nor deliberate. The Complainant

also states that he has no grievance of any sort and he has no problem if proceedings are dropped. Normally delay has dangerous ends under RTI. However, since Complainant/Applicant is satisfied there is no point in proceeding further and proceedings are to be dropped.

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

ORDER

The penalty proceedings are dropped.

Penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 08th day of February, 2012.

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

