

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Penalty No.37/2011  
In  
Complaint No. 588/SIC/2010**

Shri Ganesh Chodankar,  
Regional Employment Exchange,  
4<sup>th</sup> Floor, Shrama Shakti Bhavan,  
Patto, Panaji – Goa

**... Complainant.**

V/s.

Public Information Officer,  
Labour Department,  
Secretariat,  
Porvorim - Goa

**...Opponent.**

Complainant in person.  
Adv. Shri K. L. Bhagat for Opponent.

**ORDER**  
**(24.02.2012)**

1. By Order dated 13.04.2011 this Commission issued notice under section 20(1) of the Right to Information Act, 2005 ('R.T.I. Act' for short) to the Opponent/Public Information Officer (PIO) 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 Opponent/PIO filed the reply which is on record. In short it is the case of the Opponent/PIO that the Complainant vide application dated 31.08.2010 sought information in respect of 15 points as set out in the application. As the information sought was available with the Commissioner, Labour & Employment, Panaji-Goa, the Opponent vide his letter dated 02.09.2010 transferred the said application dated 31.08.2010 to the said office as per the provisions of section 6(3)(ii) of the RTI Act and that too within a period of five days from the receipt of the said information. That the Commissioner of Labour & Employment vide his letter dated 25.10.2010 furnished the information in respect of the said application to the Opponent herein. That the Opponent vide letter dated 01.11.2010 informed the Complainant that certified copies applied by him were ready and he may

collect the same by depositing an amount of Rs.34/-. That the Complainant in spite of having received the said intimation collected the information on 16.11.2010. That there is no delay whatsoever on the part of the PIO/Opponent. That the Commissioner of Labour & Employment provided the said information to the PIO on 25.10.2010. Therefore, the PIO was not in a position to furnish the information to the Complainant till the same was received from the Commissioner of Labour & Employment. The delay, if any, caused during the said period should not be attributed to the PIO. Likewise, delay, if any, caused after intimation given to the Complainant also should not be attributed to the PIO in as much as the Complainant himself came to collect the information belatedly. It is further the case of the Opponent that after the receipt of the said information on 25.10.2010 the PIO could not give intimation to the Complainant for the receipt of the said information before 01.11.2010 in as much as the PIO was busy in dealing with some urgent and unavoidable official assignment and, therefore, delay if any caused was not intentional or malafide. According to the Opponent the penalty action may be dropped.

3. The Complainant filed reply to the reply of the Opponent. According to the Complainant, Kum. Fatima Rodrigues, officiating Labour Commissioner is also equally responsible for negligence and defeating the purpose of RTI Act. In short according to the Complainant penalty should be from 31.09.2010 to 07.03.2011 i.e. the date of inspection. According to the Complainant penalty should be imposed on both, Opponent and Ms. Fatima Rodrigues, Labour Commissioner.

4. Notice was issued to the PIO, Office of Commissioner of Labour & employment and the reply filed is on record. In short, it is the case of the PIO, Commissioner of Labour & Employment that PIO, Labour Department vide letter dated 02.09.2010 only forwarded the application to the office of Commissioner, Labour & Employment requesting to furnish information as regards point No. 1 to 15. That the application was not transferred under section 6(3) of the RTI Act. That the application was addressed to the Commissioner, Labour & Employment. That if it was addressed to the PIO then the PIO would have furnished the information. As the PIO was unaware of the same there is no negligence on the part of PIO in furnishing

the information. That the Commissioner, Labour and Employment after receiving the application from the PIO, Labour Department furnished the information vide letter dated 25.10.2010. In short, it is the case of PIO, Office of Commissioner, Labour that as the application was not marked to the PIO of Commissioner of Labour and Employment, the question of not furnishing the information does not arise. Rejoinder of the Opponent is on record. It is the case of the Opponent in reply of PIO, Commissioner of Labour and Employment that as per provisions of section 6(3)(ii) of the RTI Act, when the subject matter of the application is more closely connected with the functions of another Public Authority, the Public Authority to which such application is made, shall transfer the application to that other Public Authority and inform the applicant immediately about such transfer. That therefore the contention of the Commissioner, Labour and Employment that the application was not transferred under section 6(3) of the RTI Act and, therefore, same was not addressed to the PIO and, therefore the information furnished by the PIO is not correct. That the Opponent has rightly transferred the application to the Public Authority and it was incumbent upon the transferee Public Authority to furnish the information directly to the information seeker.

5. Heard the arguments. The Complainant argued in person and the learned Adv. Shri K. L. Bhagat argued on behalf of the Opponent.

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

It is seen that the Complainant sought certain information from the Opponent vide application dated 31.08.2010. Shri B. S. Kudalker, Under Secretary (Industries & Labour), vide letter dated 02.09.2010 addressed to Commissioner, Labour and Employment informing that he was directed to forward the letter dated 31.08.2010 received from Secretary (Labour) enclosing an application dated 31.08.2010 of the Complainant Shri G. Chodanker and requesting to furnish information in respect of Sr. Nos. 1 to 15 to the applicant directly within stipulated time period as per rules in force. By letter dated 25.10.2010 F. Rodrigues, Commissioner Labour and Employment informed Under Secretary (Labour), Labour Department, Secretariat, Porvorim-Goa that information was being enclosed. It was also

informed that the same may be communicated to the applicant at his end. By letter dated 01.11.2010 the PIO/Opponent informed the Complainant that information was ready and to come and collect the same. The Complainant collected the same on 16.11.2010.

Admittedly, delay is there i.e. delay from 01.10.2010 to 01.11.2010 i.e. the date when Complainant was called to collect the information. The delay is of about 30 days.

7. Under section 20(1) of the RTI Act the Information Commission must satisfy that PIO 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.

In the case before me there is delay in furnishing the information.

8. Now it is to be seen who is responsible for delay. Under section 5(4) of RTI Act 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 culpable officers.

In the case before me as pointed above the PIO forwarded the request to the Commissioner and the Commission by letter dated 25.10.2010 submitted the information to the PIO. According to the PIO, Office of Commissioner of Labour, PIO, Labour Department only forwarded the application requesting to furnish the information. The application was not transferred under section 6(3) of the RTI Act. Besides, the same was addressed to the Commissioner, Labour and Employment. That the PIO was unaware of the same and that there is no negligence on the part of PIO in furnishing the information. From the records it appears to be so. Though this is disputed by the Adv. Shri Bhagat for Opponent. Technically in the

instant case Opponent/PIO becomes responsible under the RTI Act and hence penalty on him.

I have perused the letter dated 02.09.2010. The same is sent by Under Secretary (Industries & Labour) to the Commissioner, Labour and Employment. The letter dated 25.10.2010 is enclosing information and the same is from F. Rodrigues, Commissioner, Labour & Employment to Under Secretary Labour, Labour Department, Secretariat, Porvorim. In view of this the PIO/Opponent is liable for penalty.

10. I now proceed to consider the question of imposition of penalty upon the Opponent under section 20 of the RTI Act. 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 also this Commission resulting into unnecessary harassment of a common man. RTI Act provides Rs.250/- per day. In the instant case the delay is from 01.10.2010 to 30.10.2010, that is, of 30 days after reducing the statutory period of 30 days for providing information under section 7(1) of the RTI Act. Therefore the concerned PIO is to be awarded a penalty of Rs.7500/- (Rs.250 x 30 days).

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

### **ORDER**

The Opponent is hereby directed to pay Rs.7500/- (Rupees Seven Thousand Five Hundred only) as penalty imposed on him today. This amount of penalty should be recovered from the salary of PIO/Opponent in three instalments from April, May and June, 2012 by the Director of Accounts.

The said amount be paid in Government Treasury. A copy of the Order be sent to the Director of Accounts, Panaji for execution and recovery of penalty from the Opponent.

Pronounced in the Commission on this 24<sup>th</sup> day of February, 2012.

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

