

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Penalty No.59/2011
In
Appeal No. 279/SCIC/2010**

Mr. Francisco Xavier H. Pereira,
Near the Church, Moraileum,
Curchorem-Goa

... Complainant.

V/s.

The Chief Officer,
Shri Sudin A. Natu,
Public Information Officer,
Curchorem-Cacora Municipal Council,
Curchorem - Goa

...Opponent.

Appellant in person.
Adv. Shri N. Savoiker for Respondent.

ORDER
(29.02.2012)

1. By Order dated 18.07.2011 this Commission issued notice to the Respondent/PIO to show cause why penalty action should not be taken against him for causing delay in furnishing the information.

2. In pursuance of the notice the Respondent/PIO has filed the reply which is on record. In short it is the case of the Respondent/PIO that since 03.10.2011 he is posted as the Mamlatdar of Canacona Taluka, prior to which he was working as the Mamlatdar of Quepem Taluka. That since 05.06.2009 till 30.09.2010 he was holding the Addl. Charge as the Chief Officer of the Curchorem-Cacora Municipal Council besides his regular duties as the Mamlatdar of Quepem Taluka. That since 30.09.2010 Shri Prashant Shirodkar was appointed and took charge as Chief Officer of the Curchorem-Cacora Municipal Council. That besides his regular duties as Mamlatdar he was also discharging the following duties:- (a) was appointed as the Assistant Returning Officer for the Zilla Panchayat elections. The said election process began from 02.11.2009 by preparation of voters' list till holding of polls on 07.03.2010 and declaration of results, thereafter; (b) From 01.04.2010 to 15.05.2010 worked as charged officer (incharge of

Quepem Taluka) in 1st phase of population census. The said work completed on 04.06.2010; (c) Thereafter was appointed as Asst. electoral Registration Officer for Quepem Assembly Constituency. This duty included receiving claims for inclusion, deletion, correction and transposition of names from 14.06.2010 to 15.07.2010 followed by publication of Electoral Rolls on 26.08.2010. That besides all the aforesaid duties he was holding the additional charge as Chief Officer of the Curchorem-Cacora Municipal Council. It is the case of the Respondent that on 20.04.2010 the application was made by the Appellant for information. On 09.06.2010 the Appellant was informed about the availability of lease agreement in respect of Shop No. 5 only and the said copy is furnished. That on 26.07.2010 another application is made for the copies of agreements of other four shops and on 09.09.2010 non-availability of records in respect of the said lease agreements is informed. It is the case of the Respondent that from 30.09.2010 Shri Prashant Shirodkar took over as the Chief Officer of the Curchorem-Cacora Municipal Council. That on 06.10.2010 order of First Appellate Authority was passed and on 12.10.2010 letter was issued to the said four shop owners directing them to furnish the copies of the said lease Agreements. It is further the case of the Respondent that he made sincere efforts to furnish the information to the Appellant, as soon as the same was available. That since information was not available the same could not be given to the Appellant. That inspite of holding the Addl. Charge he was trying to discharge his duties sincerely and diligently and that delay, if any, in furnishing information was not intentional and/or malafide but was genuine and reasonable.

3. Heard the arguments. The Appellant filed written arguments which are on record. Adv. Shri N. Savoiker argued on behalf of the Respondent. He advanced elaborate arguments.

Advocate for Respondent referred in detail about the charges which Respondent was holding at the relevant time. He also submitted about the efforts made by him and also about furnishing available information. He next submitted that Respondent/PIO was not holding regular charge. He admits that there is delay but the same is not deliberate or intentional. He also referred to Section 20 of the RTI Act. According to him proceedings be dropped.

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

It is seen that application is dated 20.04.2010. By reply dated 09.06.2010 the Respondent/PIO informed the Appellant that information is not available in records and that only one copy of lease agreement of shop No. 5 was enclosed. In short the information as sought was not available. Normally under RTI this should have been informed within 30 days.

Under RTI there is no obligation on the part of PIO to furnish the information which is not available. Again the Appellant inspite of the reply again filed the same request which is not in the spirit of RTI. It appears that PIO sent letters to concerned persons and one more lease agreement was furnished. This may be alludable but under RTI this is not permissible as PIO is not bound to collect information for an information seeker. Right to Information can be invoked only to available and permissible information.

Coming to the aspect of delay, admittedly there is delay. The application is dated 30.04.2010. The statutory period of 30 days get over by 20.05.2010. The reply is furnished on 09.06.2010. There is delay of about 18-19 days. This aspect is admitted. However, according to Respondent this is on account of workload and he has narrated in detail about the workload.

5. Now it is to be seen about imposition of penalty upon the Respondent under Section 20 of the RTI Act. Even though the Respondent has given explanation the fact remains that there was delay in furnishing the reply. In fact the delay is of 18-19 days after reducing the statutory period of 30 days. Under RTI penalty is Rs. 250/- per day. However considering 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.2000/- (Rupees two thousand only) would meet the ends of justice.

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

ORDER

The Respondent/PIO is hereby directed to pay a sum of Rs.2000/- (Rupees two thousand only) as penalty imposed on him today. This amount

of penalty should be recovered from the salary of PIO/Respondent for the month of May, 2012 by the Director of Accounts.

A copy of the Order be sent to the Joint Director of Accounts, South Branch, Margao-Goa for execution and recovery of penalty from the Respondent/PIO. The said amount be paid in Government Treasury.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 29th day of February, 2012.

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

