

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Penalty No.54/2011
In
Appeal No.39/SCIC/2011**

Mr. I. S. Raju,
H. No. 706, Acsona,
Benaulim,
Salcete - Goa

... Appellant/Complainant.

V/s.

Asst. Public Information Officer,
Asst. Engineer & Technical Officer,
P.W.D., SD-II, WD XXV,
Fatorda,
Margao – Goa

...Respondent/Opponent.

**Appellant absent.
Respondent in person.**

ORDER
(04.04.2012)

1. By Judgment and Order dated 15.07.2011 this Commission issued notice to the Respondent under Section 20(1) of the Right to Information Act, 2005 to show cause why penal action should not be taken against him for causing delay in furnishing the information.

2. In pursuance of the said notice the Respondent has filed the reply which is on record. In short, it is the case of the Respondent that he is posted as Assistant Engineer, Quepem, Division XXV, Sub Division-II. In addition to the said regular posting the Respondent has also been asked to look after the duties of Technical Officer of Salcete Taluka. The application under RTI Act was addressed to the Technical Officer and Assistant Engineer of Salcete Taluka. That the Respondent has not been appointed as Public Information Officer or Assistant Public Information Officer in respect of Salcete Taluka. However, the Respondent has diligently and dutifully complied with all the orders passed by his superiors and in good faith he has already furnished the information to the Appellant in his capacity of Technical Officer. That the present Show Cause Notice be withdrawn as the Respondent has dutifully complied the information even though he has not

been officially designated as the Public Information Officer or as the Asst. Public Information Officer or Technical Officer, Salcete Taluka. On merits it is the case of the Respondent that the Appellant had vide his letter dated 26.10.2010 requested the Technical Officer and Assistant Engineer Fatorda to revoke the technical approval given to the construction file of Miss Maria D'Souza. That it was the case of the Appellant that technical approval requires to be withdrawn as according to him the said Maria D'Souza had done deviations in the construction of the house and the required distance between the septic tank and well was not maintained. That vide his subsequent letter dated 23.11.2010 the Appellant asked the Technical Officer and Assistant Engineer to inform him about the action taken on the aforesaid application dated 26.10.2010. That the letter dated 25.11.2010 was submitted to the office of Technical Officer on 25.11.2010. That the grievance of the Appellant which pertains to the non-maintenance of distance between septic tank and well does not fall within the jurisdiction of Technical Officer and as such the Technical Officer cannot take any action in the matter. That the Respondent's main posting is at Quepem as Assistant Engineer, Division XXV, SD-II. Besides the said posting Respondent has been given additional duty as Technical Officer for Salcete and also charge of works pertaining to bridges and approach roads in respect of Navelim. That the Appellant preferred appeal before First Appellate Authority and the First Appellate Authority has given clear finding that Respondent has not shown any malafide intention in hiding or refusing the information. That in pursuance of the Order of First Appellate Authority Respondent has furnished information to the Appellant on 11.02.2010. In the Appeal the Appellant has not prayed for any penalty to be imposed on the Respondent. According to him no case has been made out for imposing penalty. It is, however, the case of Respondent that there is no malice or malafide on the part of the Respondent and that Respondent has not been appointed as PIO or APIO in respect of the office of Technical Officer, however, the Respondent has given diligently his reply to the application filed by the Appellant. The delay in giving the reply was solely due to pressing of office exigencies and due to the fact that the Respondent was burdened with the workload of different offices.

The Appellant has also filed his detailed reply to the reply of the Respondent. The same is on record. The Appellant has stated about delay. According to him heavy penalty be imposed.

3. I have carefully gone through the records of the case.

It is seen that by application dated 23.11.2010 the Appellant sought certain information. First Appeal was disposed by order dated 04.02.2011 and information was furnished by letter dated 11.02.2011. There is about 48/49 days delay after deducting the statutory period of 30 days.

It is the case of the Respondent that he was not the P.I.O. and there was no P.I.O. at the relevant time. The Respondent further states that he furnished the information in time after the F.A.A. passed the order. It appears that Respondent was not even P.I.O. or A.P.I.O. at the relevant time and that he was attached to Quepem office and at the same time posted at Margao.

4. 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. However there was no P.I.O. at the relevant time and the Respondent furnished the information only when F.A.A. directed to do so. The information furnished by Respondent is in time considering the time limit fixed by F.A.A.

I have perused some of the rulings of C.I.C. The Commissions considered various aspects and held that in view of efforts put to furnish information delay caused becomes excusable.

It is to be noted here that 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. In the case before me P.I.O.

was not there. Right to seek information cannot be extended to the extent that even if the P.I.O. is not there still penal provisions should attract. No doubt there has been some delay in providing information; however, I cannot hold the Respondent responsible for the same.

5. It is pertinent to note that R.T.I. Act casts obligation on the Public Authority to see that P.I.Os, etc. are duly appointed and information furnished in time. There should not be lapse on this count. The Commission would like to caution all concerned to be alert and vigilant in dealing with requests/appeals as received from the citizens under R.T.I. Act in future. R.T.I. Act, among other things, enjoins upon all concerned to organize their office/functioning in such a way that information as sought for could be retrieved with minimum time so as to honour the time limit for providing the information as contemplated under the Act and this Commission would therefore expect all concerned to follow the same and avoid such instances in future.

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

ORDER

The show cause notice issued stands discharged. The penalty proceedings are dropped.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 04th day of April, 2012.

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

