

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Penalty No.08 /2012
In
Complaint No.21/SCIC/2008
In
Appeal No. 120/2007**

Mrs. Sangeeta Pednekar,
H. No. 477, Canca Abas Waddo,
Bardez - Goa

... Complainant.

V/s.

Public Information Officer,
Secretary,
Village Panchayat of Verla-Canca,
Bardez - Goa

...Opponent.

**Complainant alongwith Adv. A. D'Silva and Adv. Ms. S. Naik.
Opponent alongwith Adv. Rane.
B.D.O. Mapusa-Bardez in person.**

ORDER
(21.06.2012)

1. By Order dated 02.12.2011, the Opponent No.1/Public Information Officer to comply the order dated 12.06.2008 i.e. to furnish the information/records especially the decision of the Panchayat leading to the grant of two separate house numbers in favour of Anant Shetgaonkar and Suhas N. Shetgaonkar within 20 days from the receipt of this Order and report compliance on 16.01.2012.

No report of compliance was filed on 16.01.2012. The Complainant appeared on 16.01.2012 and submitted that no information was furnished.

Notice was issued to the Opponent/PIO to show cause why order was not complied with and why penal action should not be taken.

2. On 12.03.2012 and 27.03.2012 the Appellant/Complainant alongwith her Advocate and Adv. Shri M. G. Rane for Respondent/Opponent/PIO remained present. After hearing both sides notice was issued to the Block Development Officer (BDO) to remain present so as to ascertain about the information. Again on 20.04.2012 Complainant alongwith her advocate

and Adv. Shri Rane for Opponent/PIO appeared. Finally after hearing both sides the matter was posted for order.

3. The order dated 12.06.2008 is as under:-

“6. The Public Information Officer is directed to reconstruct the records of the grant of the two separate House Nos. 477/A and 477/B in the names of Shri Anant Shetgaonker and Suhas N. Shetgaonkar from house tax register as well as “transfer of house tax files” which was handed over by Shri Pagui to Kambli at the item 15 of the charge report dated 13.3.2007. The Compliance report should be submitted to the Commission within a period of one month from the date of this order.”

4. By order dated 29.09.2008 in Complaint No. 21/SCIC/2008 it was observed as under:-

“.....
.....
The present Village Panchayat Secretary was given a direction to reconstruct the house tax file of H. No. 477A and 477B. He has reported compliance. He may now give the records to the Complainant especially the decision of the Panchayat leading to the grant of two separate house number in favour of Anant N. Shetgaonker and Suhas N. Shetgaonker.
.....
.....”

5. It is an admitted position that the order of this Commission dated 2.12.2011 has not been complied with. Adv. Shri Rane submitted the difficulty in complying i.e. reconstituting the file, etc. I do agree with the Adv. Shri Rane that the order was to reconstitute/create the information. However this order dated 12.06.2008 was not challenged. No doubt Appellant/Complainant filed the Writ Petition bearing No. 262 of 2009 however the Opponent/Respondent did not agitate this issue. Therefore the said order stands. This Commission cannot review the order of his predecessor. In any case there is delay in complying the order of this Commission dated 02.12.2011. This delay part is not in dispute.

6. Under Section 20 of the RTI Act the Information Commission must satisfy itself that the PIO has without reasonable cause refused/not furnished information within the specified time frame. In other words the penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. It is to be noted that the word 'reasonable' has to be examined, in the manner which a normal person would consider it to be reasonable. In any case under RTI, delay is inexcusable.

7. Apart from the aspect of delay there is another angle to this case. It is unfortunate that this matter is pretty old. The information in this case was sought somewhere on 13.08.2007. The matter was taken to Appellate Forum. Then again before Hon'ble High Court and again before this Commission. For a long time the Appellant/Applicant is trying to get the information but she is not able to get the same though the order is in her favour. Apart from that the Appellant suffered detriment on account of failure to provide the information. The Appellant and her Advocate had to come many times to the Commission with the hope that information would be furnished. This naturally caused mental and physical harassment to the Appellant. Harassment of an information seeker by public Authority is not permissible under RTI. Besides, it is socially abhorring as it causes stress and strain to the Appellant. In this factual scenario instead of going for penal provision, this Commission is considering compensating the Appellant for the loss and detriment suffered by her in having to pursue the matter. Secondly, this approach will have a telling effect as it may improve the work culture in maintaining proper records, changing the outlook and facilitating furnishing of information. I am aware that under Section 19(8)(b) the powers of the Commission are limited as far as compensation is concerned.

This Commission under its powers under Section 19(8)(b) of the RTI Act awards compensation of Rs.8000/- (Rupees Eight Thousand only) to the Appellant for the loss and detriment suffered by her in pursuing this matter. This amount is to be paid by the Village Panchayat of Verla-Canca from its funds.

8. Advocate for the Appellant submits that the said resolution was essential for them so as to approach the Court of Law. Though the order

was to reconstitute certain documents, according to Adv. Rane the same was not possible. I do agree with the contentions of the Advocate for the Appellant regarding the resolutions. However, the Appellant can very well challenge the same/order based on this order. Non-furnishing of copy of resolution and its non-availability is an admitted position and the Appellant can very well challenge the same in an appropriate Forum.

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

ORDER

The Public Authority/Village Panchayat of Verla-Canca, Bardez, Goa, is hereby directed to pay a sum of Rs.8000/- (Rupees Eight Thousand only) to the Appellant as compensation. The same be paid to the Appellant directly within 30 days from the receipt of this Order. The said amount be paid from the funds of Public Authority/the said Village Panchayat.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 21st day of June, 2012.

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

