

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Penalty Case No.32/2011
In
Appeal No.239/SCIC/2010**

Shri Nishant Gurudas Sawant,
R/o. Mahalaxmi, Bandora,
Ponda - Goa

... Appellant.

V/s.

The State Public Information Officer,
North Goa Zilla Panchayat,
Junta House,
Panaji - Goa

... Respondent

Appellant absent.
Respondent absent

ORDER
(06/07/2012)

1. By Judgement and order dated 21/03/2011, this Commission issued notice U/s.20(1) of the R.T.I. Act to the Respondent No.1/P.I.O. 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 Public Information Officer appeared and filed the reply which is on record. It is the case of the respondent P.I.O. that the appellant Shri Nishant G. Sawant, had requested the information under R.T.I., vide his application dated 30/03/2010. That the then P.I.O. Shri Minguel D. S. Fernandes requested him to pay the

necessary fees in order to provide the certified copies of the information as desired by him vide letter dated 23/04/2010. That the present P.I.O. took the charge of Chief Account Officer who is also P.I.O. on 3rd May, 2010. That since the appellant has not turned to collect the same, reminder was sent to him and pay the fees by this office letter dated 24/5/2010 in response to appellant's letter dated 19/5/2010, as the copies of the information sought are to be handed over only after the payment of necessary fees. That the appellant paid fees on 4/6/2010 by the receipt No.3744. That the necessary information was kept ready to be handed over to the appellant. However, he preferred an appeal before First Appellate Authority. Vide appeal dated 11/06/2010 even though the information was ready to be served. That the First Appellate Authority vide order dated 9/7/2010 disposed the appeal ordering the P.I.O. to furnish the information sought by the appellant. That consequent upon the order of the F.A.A. the P.I.O., vide letter dated 19/7/2010 requested the appellant to collect the necessary documents sought by him. The appellant attended the office but refused to accept the said information stating that the said information is incomplete by his oral statement. Lastly the information was collected by the appellant on 21/3/2011 on the direction of the Commission. It is the case of the P.I.O. that the appellant has not collected the information inspite of repeated requests. That it appears that the appellant was not interested in information which he should have collected at the first instance. That the office of P.I.O. has not delayed the information. That the appellant purposely delayed collecting information and as such imposing penalty on P.I.O. will be unfair and unjustifiable.

3. Heard the appellant and the respondent.

Appellant referred to the facts of the case in detail. According to him he went twice to collect but not given. He next submitted that he gave letter on 19/5/2010 and on 24/5/2010 called to pay and that he paid on 4/6/2010. According to him documents were given in Commission.

During the course of his arguments, the respondent submitted that the earlier P.I.O. Minguel Fernandes gave letter dated 23/4/2010. That the respondent present P.I.O. joined on 3/5/2010. He next submitted that appellant was told to pay and collect the information. But appellant did not collect the information. Again after order of F.A.A. letter was sent but he did not collect. He next submitted that appellant attended office on 5/8/2010 but he refused to accept.

In reply appellant submits that since it was incomplete he did not receive.

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

It is seen that by application dated 30/03/2010 the information was sought. By letter dated 23/04/2010 the appellant was requested to attend the office and to pay the necessary fees in order to provide certified copies of the information desired by appellant. From the records it is seen that the appellant did not attend the office nor paid the necessary charges. In view of this position Sec.7(3)(a) comes into play. By letter dated 19/5/2010 the appellant states that with reference to letter dated 23/4/2010. He attended office on 19/5/2010 at 4.00 p.m. to pay. He further informs that as per letter dated 23/4/2010 respondent/P.I.O. has not issued information. Again on this date no amount is deposited. By letter dated 24/5/2010 the P.I.O. again requested the

appellant to deposit Rs.164/-. In fact the fees were deposited only on 4/6/2010. Instead of collecting information, appellant preferred an appeal on 11/6/2010 before the F.A.A. It is to be noted here that under Sec.19(1) First Appeal is to be filed within 30 days. Normally if request is disposed or not disposed then First Appeal would have been filed by May, 2010. However on 4/6/2010 the fees are paid and appeal is preferred on 11/6/2010. Again there is a letter dated 19/7/2010 whereby appellant was requested to collect the information as sought by him and as per orders of the F.A.A. According to P.I.O./respondent appellant attended their office on 5/8/2010 but refused to accept the said information stating that the said information is incomplete by his oral statement. This fact is admitted by appellant during the course of his arguments in reply to the argument of P.I.O.

Normally only after receiving information one can say whether it is incomplete or not.

No doubt there is delay in furnishing the information.

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 normal person would consider it reasonable. Under Sec. 20 of the R.T.I. Act the Information Commission must satisfy itself that P.I.O. has without reasonable cause refused/not furnished information within time frame.

In the instant case the appellant has not acted promptly on the letter dated 23/4/2010. Again this letter is within time. Besides the present P.I.O. took charge on 3/5/2010 and he sent reminder letter on 24/5/2010. In the factual matrix of this case responsibility for delay cannot be conclusively fixed

on the P.I.O./respondent. The Right to Information Act cannot be stretched to the extent that P.I.O. alone is responsible. In the factual matrix of this case, the benefit is to be given to the P.I.O. as the reasons for delay seem to meet the test of “reasonable cause” under section 20 of the R.T.I. Act. Besides delay in furnishing information is neither willful nor deliberate. This is therefore not a fit case for the imposition of penalty under Sec.20 of the R.T.I. Act.

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

ORDER

The show cause notice is discharged and penalty proceedings are dropped.

Penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 6th day of July, 2012.

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