

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Penalty No.46 /2011  
In  
Appeal No. 275/SCIC/2010**

Shri Nakul Sagun Narulkar,  
Hali Chandel,  
Pernem - Goa

**... Appellant/Complainant.**

V/s.

Public Information Officer,  
Sr. Land Acquisition Officer (North),  
Government Office Complex,  
Goa Tillari Irrigation Development Corporation,  
Morod,  
Mapusa - Goa

**...Respondent/Opponent.**

Adv. A. Mandrekar for Appellant/Complainant.  
Respondent/Opponent in person.

**ORDER**  
**(18.06.2012)**

1. By Judgment and Order dated 16.06.2011 this Commission issued notice under section 20(1) of the Right to Information Act, 2005 ('R.T.I. Act' for short) to the Public Information Officer ('P.I.O.)/Respondent 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 issued Shri Premanand J. Kamat, Superintendent Engineer/P.I.O, Goa Tillari Irrigation Development Corporation, has filed the reply which is on record. In short it is the case of Respondent that after going through the contents of the appeal memo and after making inquiries in the office, Respondent learnt as under:-

(a) It is reported that Hon'ble Court has issued notice dated 23.12.2010 to the Respondent as PIO, Special Land Acquisition Officer which is wrongly addressed. In Goa Tillari Irrigation Development Corporation, Superintending Engineer is designated as P.I.O.

(b) That the application filed by the Appellant dated 20.09.2010 was addressed to the P.I.O. and was received by the Special Land

Acquisition Officer (North) on 01.10.2010. That the Respondent was not aware about filing of the said application and at no point of time said application was placed or brought to the information of Respondent and being so the Respondent was not aware about pendency of the said application.

(c) That from the records it can be seen that the Appellant filed the First Appeal on 21.10.2010

It is the case of this Respondent that he was not aware of filing of the First Appeal before the First Appellate Authority; that no notice was issued to Respondent, there was no occasion for the Respondent to appear before the F.A.A. That the Respondent came to know about filing the Application as well as the First Appeal for the first time after receipt of the notice in the Second Appeal from this Commission on 03.01.2011. That the notice was addressed to Public Information Officer, Special Land Acquisition Officer (N) instead of P.I.O., Superintending Engineer, Goa Tillari Irrigation Development Corporation. That the hearing before the Commission was held for the first time on 31.01.2011 and thereafter on 17.02.2011 the Respondent No. 2 furnished the information. Being so there is no delay on the part of the Respondent. That the Respondent has not received the copy of the order as the same was addressed to Respondent No. 1, P.I.O. Special Land Acquisition Officer (N) which is wrongly addressed. That Respondent received copy from F.A.A. It is further the case of this Respondent that the Applicant has initially wrongly addressed the application and that the same is considered by the Hon'ble Court. This has caused delay, confusion and inconvenience to act on the issues, but inspite of above implication under RTI Act the PIO Superintending Engineer, Goa Tillari Irrigation Development Corporation has furnished the information on 17.02.2011 within the time. According to Respondent their action is bonafide and does not warrant imposition of penalty or initiation of disciplinary action on Respondent.

3. Heard the arguments. The learned Adv. Shri A. Mandrekar argued on behalf of Appellant and Respondent/PIO argued in person.

Adv. Shri Mandrekar referred to the facts of the case in detail. According to him application is dated 20.09.2010 but no reply was

furnished. He next submitted that Appeal was filed but the same was not decided and that Second Appeal was preferred. He next submitted that information is incomplete i.e. query No. 10 file is missing. According to him for the last 20 years no compensation is received. He next submitted that penalty be levied.

During the course of his arguments the Respondent submitted that Government designated him as P.I.O. and that letter was addressed to P.I.O., Special Land Acquisition Officer. That Special Land Acquisition Officer did not reply and kept it for one month. First Appeal was filed but not decided. He next submitted that in Second Appeal he was made a party and he furnished the information. According to him he is not liable for penal action. According to him Special Land Acquisition Officer as well as F.A.A. has now retired.

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

It is seen that Appellant Nakul Sagun Narulker filed an application dated 20.09.2010 to the P.I.O., The Senior Land Acquisition Officer (N) Government Office Complex, Morod, Mapusa-Goa. No date was mentioned but the same was received on 01.10.2010 as can be seen from the acknowledgement on the application. By letter dated 08.10.2010 Shri Dilip Chavan, Special Land Acquisition Officer (N) informed the Appellant that he is to return the application and request him to indicate the date. He was also requested to call on their office for discussion on the issue under reference. According to Shri D. S. Chavan Special Land Acquisition Officer (N) the Appellant neither corrected the date nor attended the office for discussion. It is seen that the Appellant preferred an Appeal before the First Appellate Authority the Managing Director, Goa Tillari Irrigation Development Corporation, Junta House, Panaji Goa. The Appeal was received on the same day in their office.

It appears that application was not addressed to the proper P.I.O. Again the present Respondent was not made a party to First Appeal. Respondent F.A.A. was P.I.O., Senior Land Acquisition Officer (N), Government Office Complex, Morod, Mapusa-Goa.

Again before this Commission also same parties were made. However, at a later date some correction/addition was done in the cause title

of the Index page. It appears that in Goa Tillari Irrigation Development Corporation, Superintending Engineer is designated as P.I.O.

P.I.O. Shri P. J. Kamat appeared on 31.01.2011 and information as furnished by him on 17.02.2011. Considering this factual backdrop P.I.O. Shri P. J. Kamat has furnished the information in time.

5. Coming to the aspect of delay. The original application is dated 20.09.2010 but received on 01.10.2010. Information is furnished on 17.02.2011 as can be seen from records. I have mentioned hereinabove about the application being filed about letter sent to the Appellant, etc. I have also mentioned that P.I.O. Shri P. J. Kamat furnished the information.

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 altogether on a different footing. The sequence of events show that application was not placed before proper P.I.O. The concerned P.I.O. was not even aware of the application but only when this Commission issued notice he appeared and furnished information. Under R.T.I. penalty can be imposed only if there is no reasonable cause for not furnishing the information within a period of 30 days. The word 'reasonable' has to be examined in the manner, which a normal person would consider it reasonable. The right to seek information and to furnish the same cannot be extended nor stretched beyond certain limits.

Initially Dilip S. Chavan, Special Land Acquisition Officer (N) sent back the application as there was no date. It is not known whether he was PIO or APIO. Even otherwise he could send the same to the proper place. But he failed to do so. If he had sent the same to the proper authority then perhaps the Appellant could have avoided all the further process, etc. In any case this has not been done.

The short point that falls for consideration is whether the factual backdrop of this case constitutes a 'reasonable cause' within the meaning of Section 20 of the RTI Act. It appears that the delay in the delivery of

information is neither willful nor deliberate. The reason for delay seems to meet the test of “reasonable cause” under Section 20 of the RTI Act.

Of course initial action of Shri Dilip S. Chavan was not proper and in tune with the RTI Act, however, it appears that he is not the PIO.

6. I have carefully gone through the records. It appears that the concerned file is missing. It is also mentioned that efforts are being made to reconstitute the said file and action will then be taken accordingly.

It appears that the whole problem could be solved if the file is traced or if not the file is reconstituted. The P.I.O. Shri Kamat states that the file can be reconstituted if Appellant cooperates. Appellant on his part also can cooperate so that the same is done at the earliest. If this is done the next point is of compensation. Much time has elapsed since the Award was passed. If the same is constituted the question of compensation also could be solved. Parties to take this issue seriously and do the needful as early as possible.

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

### **ORDER**

With the observation in para 6 above, the show cause notice is discharged and penalty proceedings are dropped.

The penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 18<sup>th</sup> day of June, 2012.

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

