

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Penalty No.06/2012
In
Appeal No. 193/SIC/2010**

Shri Cirilo Vales,
R/o. H. No. 78, Duncolim,
Seraulim,
Salcete - Goa

... Appellant.

V/s.

Public Information Officer,
South Goa Zilla Panchayats,
Arlem,
Raia - Goa

...Respondent.

Appellant absent.
Respondent in person.

ORDER
(28.06.2012)

1. By Order dated 24.01.2012 this Commission issued notice under Section 20(1) of the Right to Information Act, 2005 to the Respondent No.1/Public Information Officer 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 P.I.O. Sunita Marathe appeared and she filed the reply which is on record. In short it is the case of Respondent/P.I.O. that as per records available in the file it is verified that Shri Cirilo Vales has requested vide application dated 06.10.2009 (received by their office on 20.10.2010) for certain information and which is supposed to be provided before 20.10.2009, the same is not provided by P.I.O. Shri M. D. Nagarcenkar who retired on superannuation on 31.10.2009. That the present P.I.O. Sunita E.S. Marathe jointed to the South Goa Zilla Panchayat on 01.04.2011 and the information called by Shri Cirilo Vales was made ready and informed to him vide letter dated 28.04.2011 and all the information was provided as per Appellant's requirement. According to the P.I.O. she should not be held responsible and impose penalty for no fault of her.

3. The Appellant remained absent. I have heard the P.I.O. and perused the records.

It is seen that application seeking information is dated 06.10.2009. The same was posted and received by Opponent on 20.10.2009. The reply was to be furnished by 20.11.2009. In fact the same was furnished on 28.04.2011. However the same was furnished on 28.04.2011. Admittedly there is inordinate delay in furnishing the information.

4. Now I proceed to consider the question of imposition of penalty under Section 20 of the R.T.I. Act. The penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of thirty days. Under Section 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 specified time frame. The word 'reasonable' has to be examined in the manner, which a normal person would consider it to be reasonable.

Coming to the facts of this case the application dated 06.10.2009 sent by post was received on 20.10.2009. The P.I.O. at the relevant time was Shri M.D. Nagarsenkar who retired on 31.10.2009 i.e. about 10 days after receipt of this application. So the responsibility does not lie on him alone. It is not on record who was the P.I.O. or whether there was P.I.O. or not. The present P.I.O. Sunita E.S. Marathe joined on 01.04.2011 and she furnished the information on 28.04.2011. In view of this she cannot be held liable.

It is unfortunate that there was no P.I.O. for a long time as can be seen from records. Public Authority should see that P.I.O. is appointed and that too in time. Under R.T.I. delay is inexcusable. Initially this Commission thought delay was on account of P.I.O. Shri M. D. Nagarsenkar but from the records it is seen that he retired on 31.10.2009 i.e. much before 30 days.

In this factual backdrop the responsibility for delay cannot be conclusively fixed. The present P.I.O. furnished the information well within 30 days on joining.

5. Since responsibility cannot be fixed it is not possible to impose penalty. Another aspect is that at the relevant time there was no First Appellate Authority as Shri N. S. Navti was transferred and relieved on 27.09.2009.

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

ORDER

The Show Cause Notice is discharged and the penalty proceedings are dropped.

Penalty proceedings are accordingly disposed off.

Pronounced in the Commission on this 28th day of June, 2012.

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