

GOA STATE INFORMATION COMMISSION

“Shrama Shakti Bhavan”, Ground Floor, Patto Plaza, Panaji – Goa.

CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

Complaint 511/SIC/2010

Decided on: 15/10/2014

Shri Franky Monteiro,
H.No. 501, Devote,
Loutolim, Salcete – Goa.

V/s

The Public Information Officer,
Secretary,
Village Panchayat Loutolim,
Loutolim, Salcete – Goa

ORDER (Open Court)

RTI application dated	:	21/06/2010
PIO reply dated	:	21/07/2010
First Appeal dated	:	Nil
FAA Order dated	:	Nil
Complaint filed on	:	18/08/2010

1] This Complaint application has the same central issue and matrix as in Penalty No 13/2010 and 14/2010. The complainant herein had submitted 3 RTI applications on 19/10/2009, 29/10/2009 and 23/11/2009 all stating that information was requested under Goa RTI Act. The PIO had refused information on the ground that there is no Goa Information Act. The First Appellate Authority had allowed all the 3 First Appeals on the ground that PIO is expected to be aware that there is a Central RTI Act applicable all over Goa and he has to appreciate the spirit of RTI Act rather than harp on the word “Goa RTI Act” and directed the PIO to furnish information. This order of the FAA was not carried out by the PIO. The RTI appellant therefore filed 3 Second Appeals namely 24, 25, 37/SCIC/2010. In all the 3, the SCIC through the judgment dated 23/06/2010 has upheld the order of FAA and directed the PIO to supply information. The Writ petition filed by PIO before High Court of Bombay at Goa against the orders of SCIC has also been dismissed, on 06/12/2010.

2] In the instant case, the complainant vide his RTI Application dated 21/06/2010 had sought copies of correspondence made by Chowgule and Co. addressed to the Village Panchayat of Loutolim and the PIO had refused the said information vide his reply dated 21/07/2010 stating that the information sought is applied under Goa RTI Act, 2005 which is not in force, thus it cannot be furnished. He requested the applicant to file fresh application under RTI Act, 2005.

3] It is thus seen that on the date of replying to the RTI application the PIO had already received 3 Orders from First Appellate Authority in respect of 3 earlier RTI applications and another 3 Orders from SCIC, all of them clearly mentioning the mistaken stand taken by him and directing him to furnish information even if asked under "Goa RTI Act". He has deliberately faulted them and continued this attitude with regard to the 4th RTI application which is the subject matter of the present case.

4] When the present complaint was filed before SCIC and the PIO was called upon to file his reply, he has filed his reply on 21/12/2010. Before this date, even the Writ petition filed by him in the above mentioned 3 cases was dismissed by the High Court by their order dated 06/12/2010. It is most deplorable that the PIO continued his stand on 21/12/2010 despite the High Court order dated 06/12/2010. All this shows the attitude and adamant nature of the PIO Tendulkar in flouting the Orders of the FAA, SCIC, and even the High Court.

Hence, following the matrix of the detailed judgment passed in Penalty case No. 13/2010 and 14/2010, this case is also held as a fit case to pass the similar order.

As for the subsequent response of the PIO, it is seen that despite all the opportunity available, after filing his reply on 21/12/2010 and till the date of this order, he has not supplied the information, nor filed any further explanation except an application dated 15/06/2011 questioning the competence of SCIC for hearing the cases as a single member bench. After the decision of SCIC in second appeals were upheld by the High Court by dismissing his Writ Petitions, this new point

raised by him lacks merit. Further, it is not substantiated by any citation or any stay order. Hence it merits rejection as in the penalty cases no. 13/2010 and 14/2010.

-- **ORDER** --

In view of above I pass the following order –

Complaint is allowed. The then PIO is held as willful defaulter. Hence a Penalty case be taken up against him by name under Sec 20(1) and 20(2) for exemplary punishment. Registry to register a fresh case of Penalty and issue notices.

Order declared in open court. Parties shall be informed of this detailed order.

(Leena Mehendale)

Goa State Chief Information Commissioner

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Panaji-Goa