GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Penalty Case No. 12/2007-08 in
Appeal No. 63/2007-08.

Shri. Sandesh N. S. Kossambe,
Councilor of Sanguem Municipal Council,
Sanguem - Goa. ...... Appellant.

V/s.

1. Public Information Officer,
   The Chief Officer,
   Sanguem Municipal Council,
   Sanguem – Goa.
2. Asstt. Public Information Officer,
   The Municipal Engineer – Gr. III,
   Sanguem Municipal Council,
   Sanguem – Goa.
3. Smt. Agnela D'Souza,
   The Chairperson,
   Sanguem Municipal Council,
   Sanguem – Goa. ...... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per A. Venkataratnam)

Dated: 30/01/2008.

O R D E R

This disposes off the show cause notice issued to the Respondent No. 3 who is considered by us as "deemed Public Information Officer". The Respondent No. 3 has filed her say on 14/01/2008. She has disagreed with us that she is a deemed Public Information Officer under section 5(5) of the Right to Information Act, 2005 (for short the RTI Act). Neither in her reply nor during the arguments advanced by her Advocate could elaborate on what grounds she disagreed with the Commission. We have already given the detailed reasons in our final order dated 26/12/2007 how she has called for a file from the then Chief Officer, Respondent No. 1 herein, and kept with her for over two months preventing the Public Information Officer from discharging his duties under the RTI Act. She has also gone to the extent of putting her remarks on the original request for information dated 30/03/2007 to the effect "the information asked by

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the applicant concerns third party whose consent is required to give the information. Refer sections 8, 9 and 11 of RTI Act, 2005. Hence, the information may be denied as it forms part of a tender process which is not completed. The same may be given after tender process complete". Her remarks to the Chief Officer are written even after the Chief Officer has put his remarks on the same request directing the Asst. Public Information Officer to issue certified copies to the applicant after payment of fees on or before 3/4/2007. As she pleads that she is neither a Public Information Officer nor first Appellate Authority under RTI Act, we fail to understand in what capacity she put the above remarks. This is clearly an obstruction by her on the duties to be discharged by the Chief Officer as Public Information Officer under the RTI Act. Further to prevent giving the documents requested by the Appellant, she has taken over the file alongwith all the documents into her personal custody. Finally, when she returned the file to the Chief Officer, the lowest tender document in the file could not be traced. We have given a direction to the Public Information Officer to lodge a Police complaint. During the course of hearing, the reply to the show cause notice by the Respondent No. 3, the Respondent No. 2 who is Asst. Public Information Officer submitted that Shri. Nipanikar, the Public Information Officer has expired in an accident and all the papers are under lock and key. The Government has also not appointed another Chief Officer nor a Public Information Officer. The matter of filling a Police complaint should be pursued further by the new Chief Officer after assuming charge.

2. As to the penalty proceedings against the Respondent No. 3 though the matter is serious, we take a lenient view and warn her that she should not interfere in future in the discharge of duties by the Public Information Officer and should not give any illegal directions to the Chief Officer. Regarding the disclosure of information or withholding the information under the RTI Act, it is for the Public Information Officer to take an independent decision. With this, we discharge the show cause notice and close the matter.

Announced in the open court on this 30th day of January, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

Sd/-
(G. G. Kambli)
State Information Commissioner