

## **GOA INFORMATION COMMISSION**

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

Penalty Case No. 13/2007-08 in  
Complaint No. 25/2007-08/Police

Shri J. J. Barreto,  
C/o J.J. Trading Corporation,  
Near Railway Overbridge,  
Margao - Goa.

..... Complainant.

V/s.

Public Information Officer,  
Shri. S. M. Prabhudessai,  
The Superintendent of Police (South),  
Margao – Goa.

..... Opponent.

### **CORAM :**

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

(Per A. Venkataratnam)

Dated: 30/01/2008.

Complainant in person.

Adv. K. L. Bhagat for the Opponent.

### **ORDER**

This case arises out of non-implementation of an order dated 25/05/2007 of the Dy. Inspector General of Police, first Appellate Authority under the Right to Information Act, 2005 (RTI Act for short). By an order dated 29/11/2007, this Commission has passed final order directing the Opponent to execute the order dated 25/5/2007 of the first Appellate Authority and submit compliance report by way of an affidavit on 12/12/2007. He was further directed to appear in person alongwith affidavit and a specific mention was made therein no authorized person on his behalf is allowed to plead his case. On 12/12/2007, he has neither submitted any compliance report nor appeared in person nor asked for exemption from appearance. On the contrary, the Police Inspector, Margao has submitted an affidavit dated 23/10/2007 in his own name and also by changing the cause title assuming the powers of the Public Information Officer under the RTI Act. Even the "affidavit" was not sworn before any competent authority and is only affidavit

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in name. The Commission has rejected this and a notice was issued on 27/12/2007 asking the Public Information Officer to explain why penalty should not be imposed on him for not giving the information and not observing the orders passed by the Commission. The case was further posted for hearing on 14/01/2008. However, on 4<sup>th</sup> January, 2008, the Public Information Officer has submitted his reply in the registry, the original of which is not available on file. Similarly, the reply of the Public Information Officer is stated to have enclosed a copy of a letter of the Appellant i.e. also is not available on record. When the matter was taken up for hearing on 14/01/2008, Adv. K. L. Bhagat who is present on behalf of the Opponent has requested the Commission to take into consideration the reply filed by the Public Information Officer on 04/01/2008 for decision and submitted a photocopy of the reply of the Public Information Officer. In the copy of the reply, he submitted that the Public Information Officer could not appear before this Commission on 12<sup>th</sup> December, 2007 as the "inquiry" was in process and the report was to be received from the Asst. Public Information Officer. It is his case that as he did not receive the information from the Asst. Public Information Officer he did not remain present before the Commission. This, obviously, is not acceptable because he was not supposed to await an "inquiry" by the Asst. Public Information Officer but was supposed to implement the orders of first Appellate Authority and submit compliance before us. The Opponent did not appear before the Commission on the subsequent day of the hearing namely, 27/12/2007. This time he has given an excuse that he was busy with the Bandobast arrangement for the visit of Hon'ble Prime Minister of India. The very fact that he was summoned to appear before us is to explain himself why the first Appellate Authority's order could not be executed earlier. It is, therefore, clear that the Public Information Officer did not act diligently in supplying the information, did not honour the summons of this Commission and could not explain the delay in conducting of "inquiry". He is, therefore, liable for the penalty under section 20 of the RTI Act. Though, he is liable for the penalty, we take a lenient view of the matter and warn the Public Information Officer to be more careful in future in discharging his duties under the RTI Act as the Public Information Officer.

2. On the main point of furnishing of the information, the Public Information Officer explained that the earlier complaint of Complainant

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before the Margao Police is of civil nature and the Complainant was already informed to take re-course of filing the civil case. Further, the Public Information Officer also stated that as the matter might involve a breach of peace, separate proceedings have already been filed before the Sub-Divisional Magistrate under section 145 of Cr.P.C. The Commission has taken note of this, and closes the case.

Announced in the open court on this 30<sup>th</sup> day of January, 2008.

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

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