

**GOA STATE INFORMATION COMMISSION AT
PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

**Penalty Case No. 01/2009
In
Appeal No. 287/SIC/2008**

Mrs. Severina Fernandes
Behind St. Rita Boutique
Naika Vaddo, Calangute
Bardez – Goa

...Complainant.

V/s.

1) The Public Information Officer
Village Panchayat Calangute
Bardez – Goa

... Opponent No.1

Dated: 26.06.2009

ORDER

By order dated 12.06.2009 a show cause notice was issued to the Public Information Officer, Village Panchayat Calangute as to

- (1) why penalty @ Rs. 250/- per day from 22.11.2008 should not be imposed,
- (2) why disciplinary proceedings should not be proposed to be initiated against him, and
- (3) why the Appellant should not be paid compensation for inconvenience and harassment caused to her.

2. The Opponent filed a reply stating that he carried a search of the Panchayat records but the proceeding book pertaining to 26.12.2001 is not traced and as on 12.06.2009 he has been called by the Director of Panchayats on urgent matter, he could not attend the hearing on that day and he has no other alternate remedy to make available the information sought by the Appellant.

...2/-

3. The request for information sought by the Complainant on 21.10.2008 which consists of certified copies of resolution No. 9 dated 26.12.2001 was not provided by the Opponent. The Opponent not only failed to provide the information sought within period of thirty days and even did not comply with the directions of the First Appellate Authority to provide the information within seven days from the date of the order dated 16.01.2009 passed in the first appeal. Apart from the fact that information was not provided at all the Opponent did not comply with the directions of the Commission ordered on 19.05.2009 and on the day the Opponent was to report compliance, i.e. on 12.06.2009, he did not appear. It was only on 26.06.2009 that the Opponent appeared and filed a reply stating that he could not attend on 12.06.2009 as he has been called by the Director of Panchayat. The reply also states that he carried out search of the proceedings book pertaining to 26.12.2001 and it was not traced and no other alternate remedy to make available the information sought by the Complainant.

4. The Opponent failed to reply to the information sought by the Complainant in the letter dated 21.10.2008 and also did not inform the First Appellate Authority that the records were not available and it is only before this Commission that the Opponent took the stand that the records were not available. It is strange that the records pertaining to the year 2001 are not available. The Panchayat authorities are not maintaining these records in accordance with the provisions of section 4(1) of the Right to Information Act, 2005 and also not complied with the directions of the Commission issued in the Order dated 23.08.2008 passed in Complaint No. 1/2006/Inf/A. Moreover, the Public Information Officer has not made any efforts to trace the file such as informing the higher authorities or filing a police complaint and just remained silent and informed at a late stage and that too before the

Commission that the file is not available. The Complainant was specific to indicate the information which is required and which is a certified copy of resolution No. 9 dated 26.12.2001. The Opponent right at the time the information was sought on 21.10.2008 should have informed the Complainant about this fact and not remained silent and even should have made submissions of non-availability of records before the First Appellate Authority. In such circumstances, an enquiry is required to be conducted about this fact of the record not available or missing so as to place the responsibility on the person or persons responsible for the missing of the file and also impose penalty. The Opponent should file a complaint before the police on this missing file and as the Complainant has been put to inconvenience and hardship right from 21.10.2008 a compensation is required to be awarded to her. Hence, the following directions:

- (1) The Block Development Officer, Mapusa-Bardez to hold enquiry on the file where the resolution No. 9 dated 26.12.2001 is placed to ascertain the person responsible for the missing of the file.
- (2) The Block Development Officer, Mapusa-Bardez to submit the report on this enquiry within three months from the date of this order.
- (3) The Opponent to file a complaint about the missing file pertaining to resolution No. 9 dated 26.12.2001 to the PI, Mapusa Police Station.
- (4) Compensation of Rs. 5,000/- to the Complainant, Mrs. Severina Fernandes be paid for the inconvenience and hardship caused for the delay in furnishing the information. This payment of compensation to be made from the funds of the Village Panchayat-Calangute.

Pronounced in the open court on this 26th day of June, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

