

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Penalty Case No. 20/2008
In Appeal Nos. 221, 222, 223 and
224/SCIC/2008

Shri Surendra Furtado,
H. No. 377, Pearly Shell Housing Society,
Miramar, Panaji - Goa.

.....Appellant/Complainant.

V/s.

1. Public Information Officer,
Corporation of City of Panaji,
Panaji - Goa.
2. First Appellate Authority,
The Director,
Directorate of Municipal Administration,
Panaji - Goa.

.....Respondents/Opponents.

Appellant/Complainant in person.

Shri Melvyn Vaz in person.

J U D G M E N T

(Per Afonso Araujo)

This penalty proceedings was initiated in pursuance of the common order passed on 13/02/2009 in the Complaints No. 221/SCIC/2008, 222/SCIC/2008, 223/SCIC/2008 and 224/SCIC/2008 (hereinafter referred as the "Case A", "Case B", "Case C" and "Case D" respectively) wherein a show cause notice was issued to the Public Information Officer, Melvyn Vaz for not replying to the request under the Right to Information Act in time and also not remaining present before this Commission even after being directed by this Commission.

2. Shri Furtado stated that in all the four cases the direction of First Appellate Authority to provide the information within 15 days has not been complied by the Public Information Officer Shri Melvyn Vaz and that the information sought also was not provided at all and maximum penalty may be imposed on the said Public Information Officer. Shri Vaz contended that from 30/01/2008 to 5/5/2008 Shri Sanjeev Gadkar was the Public Information Officer and on 9/6/2008 he was holding the charge

as Commissioner of the Corporation and from 2/9/2008 he was holding regular charge. Shri Vaz produced the letter dated 8/8/2008 of the Complainant and his reply dated 29/9/2008.

3. The information sought by the Complainant in the Cases A, B, C and D was on 30/01/2008, 25/02/2008, 8/8/2008 and 10/3/2008 respectively. The requests in all those four cases were addressed to the Asst. Public Information Officer of the Corporation of City of Panaji. No doubt that under the Right to Information Act, 2005 (for short the RTI Act) the Asst. Public Information Officer cannot provide the information but a duty is cast to forward any request for information under the RTI Act to the Public Information Officer within 5 days from the date of receipt of the application and the Public Information Officer get extra 5 days to be added to the period of 30 days required to provide information. The Opponent No. 1 did not adhere to the provision of section 7(1) of the RTI Act and has failed to provide the information within 35 days from the receipt of the request, which amounts to the deemed refusal of the information sought.

4. The Complainant in all the four cases preferred the First Appeal only on 17/9/2008 and in each case order was passed on 4/11/2008 directing the Opponent No. 1 to provide the information within 15 days from the date of the order. Once the Opponent No. 1 did not decide within prescribed period of 35 days the request of the Complainant, the First Appeal should have been preferred within one month from the date of deemed refusal comes into effect. It is strange that except in Case C, the First Appellate Authority admitted the First Appeal in Cases A, B and D behind the period of limitation of 30 days. There is no whisper about the deemed refusal on the part of the Public Information Officer. Had it been so, the responsibility to provide the information would have been on the Public Information Officer at the time the request of information was presented. It was incumbent on the part of the First Appellate Authority to take into consideration this deemed refusal as liability to provide the information rested on the Public Information Officer who denied the information sought. From the period 30/01/2008 to 5/5/2008 it was Shri Sanjeev Gadkar the Public Information Officer in the Corporation and in Case A the information was sought on 30/01/2008, Case B on 25/2/2008

and Case D on 10/3/2008. It is only in Case No. C that the information was sought on 8/8/2008 when Melvyn Vaz was the Public Information Officer. The Complainant for reasons best known to him preferred the appeal in all four cases only on 17/9/2008 and that too only after the information was sought in Case No. C on 8/8/2008. The Complainant did not make any grievance before the First Appellate Authority on the deemed refusal of the request in Case Nos. A, B and D and even before the Commission and preferred the Second Appeal only on the strength that the Public Information Officer, Melvyn Vaz did not comply with the orders of the First Appellate Authority and failed to provide the information within the period of 15 days. This Commission in the common order dated 13/2/2009 made the following observation: -

“The inability of the Public Information Officer to furnish the information after a direction of the First Appellate Authority is not known to the Commission in the absence of any reply by the Public Information Officer. He is, therefore, directed to give the information in respect of all the four cases to the Complainant in another 10 days from today.” The Public Information Officer Melvyn Vaz in this penalty case has produced the request dated 8/8/2008 which is notings of the construction file of M/s. Vagae Investment at EDC Patta Plaza and the reply dated 25/9/2008 stating that the Complainant to collect the document as desired by making necessary payment of Rs.18/-. This request pertains to Case No. C and the Complainant has neither made any reference to this reply nor stated whether the information was collected on payment of required fees. Moreover, there is a endorsement of the Complainant of having received the reply on 06/10/2008.

5. Considering that the information in Cases A, B and D was not during the period when Melvyn Vaz was the Public Information Officer; the First Appeal was preferred behind the period of limitation without any application for condonation of delay; the fact that the deemed refusal was not a subject matter in the First Appeal and the grievance of the Complainant is only in respect of non-compliance of the order of the First Appellate Authority by the Public Information Officer and considering the fact that the information sought in Case C was on 8/8/2008, was provided

though late on 25/09/2009, it will not be proper to impose maximum penalty on the Public Information Officer Melvyn Vaz and a lenient view is required to be taken.

6. A penalty of Rs.5000/- is imposed on the Public Information Officer – Melvyn Vaz. This amount of penalty should be recovered from the salary of Shri Melvyn Vaz for the month of October, 2009. A copy of this Judgment should be sent to the Director of Accounts, Panaji - Goa.

Pronounced in the open court on this 24th day of September, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

