

GOA STATE INFORMATION COMMISSION

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

Appeal No. 32/2006/PAN/P

Mr. C. S. Barreto
H. No. 206, Mazalvaddo,
Assagao, Bardez - Goa.

..... Appellant.

V/s.

1. The Secretary, V. P. Anjuna Caisua &
Public Information Officer,
Anjuna, Bardez - Goa.
2. The Director of Panchayats &
First Appellate Authority,
Directorate of Panchayats,
Government of Goa,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per G. G. Kambli)

Dated: 28/12/2006.

ORDER

The Commission by its order dated 23/11/2006 directed the Respondent No. 1 to show cause as to why the penalty of Rs.250/- per day delay should not be imposed on him for providing the information after the statutory period of 30 days. Admittedly, the application dated 8/5/2006 of the Appellant seeking certain information was forwarded to the Respondent No. 1 by the Dy. Director of Panchayats (North) by memorandum dated 28/6/2006 which was followed by another memorandum dated 30/8/2006. As the Respondent No. 1 failed to provide the information to the Appellant within the statutory period of 30 days, the Appellant preferred the first appeal before the Respondent No. 2 vide appeal dated 12th August, 2006. Pursuant to the said appeal, the Respondent No. 2 had fixed the hearing on 12/9/2006. The Respondent No. 1 was also directed to remain present for the hearing. However, the Respondent No. 1 chose to remain

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absent before the first Appellate Authority. As the Appellant did not receive any order from the first Appellate Authority, the Appellant preferred the second appeal before this Commission.

2. The Respondent No. 1 has admitted of having received the application dated 8/5/2006 of the Appellant. The Respondent No. 1 was directed to explain each day delay beyond 30 days. The Respondent No. 1 in his reply to the show cause notice has stated that the Respondent No. 1 was under bonafide belief that he was not required to furnish any reply since no information was to be provided to the Appellant. In para 3 of the reply, the Respondent No. 1 submitted that the Respondent No. 1 immediately furnished the information to the Appellant upon the receipt of the memorandum dated 28/6/2006. Further, in para 4 of the reply, the Respondent No. 1 has stated that the information was furnished on 29/9/2006. Being so the contention of the Respondent No. 1 that the information was furnished to the Appellant immediately upon the receipt of the memorandum dated 28/6/2006 is not correct. As per the own admission of the Respondent No. 1, the Respondent No. 1 took almost 3 months to provide the information to the Appellant. In para 5, the Respondent No. 1 has tried to justify his absence before the first Appellate Authority for the hearing stating that the notice of the first Appellate Authority was addressed to the Appellant and copy was endorsed to the Respondent No. 1 and that the Respondent No. 1 was under bonafide belief that the direction was issued to the Appellant to verify the authenticity of the Appellant. On perusal of the notice of the first Appellate Authority dated 24/8/2006, it is crystal clear that the Respondent No. 1 was directed to remain present on the date, time and place for the hearing before the first Appellate Authority and therefore, the contention of the Appellant that he was not given any direction cannot be accepted.

3. The Dy. Director of Panchayats (North) has again issued memorandum dated 30/8/2006 directing the Respondent No. 1 to furnish the information to the Appellant. In spite of this, the Respondent No. 1 furnished the information to the Appellant on 23/9/2006. The Respondent No. 1 tried to justify the delay stating that he was busy with other work regarding the illegal constructions and violation of the CRZ regulations. In fact, it is the duty of the Respondent No. 1 being the Secretary of the Village Panchayat to place the report on such illegal constructions before the Panchayat body for appropriate action. It is only on the

account of the inaction and or on the omission on the part of the Village Panchayat, the illegal constructions are coming up even in violation of CRZ regulations and therefore, the Respondent No. 1 cannot be allowed to take the advantage of his own omissions. The Respondent No. 1 has also submitted that during relevant period i.e. 30/9/2006 the audit of the records of the Panchayat was scheduled and therefore, he remained busy for completion of the records. Here again, it is the duty of the Respondent No. 1 to keep the records of the Village Panchayat updated daily and not to wait till the audit is conducted. Even otherwise, the application of the Appellant was sent to the Respondent No. 1 on 28/6/2006 much earlier to the audit. Therefore, explanation given by the Respondent No. 1 is not satisfactory. The Respondent No. 1 has also tried to explain that besides the other duties, he is also Registrar of Births and Deaths. In this context, it may be pointed out that it is not only the Village Panchayat Secretary of Anjuna-Caisua is the Registrar of Births and Deaths but all the Village Panchayats Secretaries are Registrar of Births and Deaths. The explanation and justification given by the Respondent No. 1 is not satisfactory. The Respondent No. 1 has taken more than 85 days as against the statutory period of 30 days. The Respondent No. 1 himself has admitted that he was under the bonafide belief that since the information to be provided to the Appellant was nil, he did not furnish any reply. In fact, the Respondent No. 1 ought to have provided the information immediately because the information was nil.

4. The exact date of receipt of the memorandum dated 28/6/2006 is not placed on record. The normal period may take 3 to 4 days. Even assuming that the Respondent No. 1 has received the memorandum dated 28/6/2006 in the first week of July, then there has been inordinate delay in providing the information i.e. 3 weeks of the July, full month of August and 22 days of September, 2006. Assuming that the Respondent No. 1 received the memorandum dated 28/6/2006 alongwith application of the Appellant latest on 7/7/2006, in that case the total time taken for providing the information comes to 77 days. Thus excluding statutory period of 30 days available to the Respondent No. 1, the delay comes to around 47 days. From the records placed before us by the Respondent No. 1 and the Respondent No. 2, it is clear that the Respondent No. 1 has deliberately and intentionally delayed in providing information to the

Appellant. The Respondent No. 1 even did not bother to comply with the directions given by his superior and thus neglected the directions issued by the higher authorities. The reply of the Respondent No. 1 to the show cause notice is also not supported by any affidavit also.

5. The Respondent No. 1 has requested to take the lenient view being this is first instance where the Respondent No. 1 could not provide the information within the statutory period and submitted that he would not repeat such similar lapses in future. However, we cannot totally absolve the Respondent No. 1 because there has been ordinate and abnormal delay. Thus keeping in view all the factors and as the Respondent No. 1 has requested for the lenient view, we impose the penalty of only Rs.5000/- on the Respondent No. 1 to be recovered from the salary of the Secretary of Village Panchayat Anjuna-Caisua who was working at the relevant time to be recovered from his salary from 2 equal instalments from the salary of January and February, 2007.

6. A copy of this order be endorsed to the Block Development Officer, Bardez Block with a directions to recover this penalty from the salary of the Respondent No. 1 herein.

(G.G. Kambli)
State Information Commissioner, GOA.

(A. Venkataratnam)
State Chief Information Commissioner, GOA.