

## **GOA INFORMATION COMMISSION**

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

Penalty Case No. 16/2007-08 in  
Appeal No. 51/2007-08/US(PER)

Shri. Gajanan D. Phadte,  
898, Nila Niwas, Alto Torda,  
P.O. Porvorim - Goa.

..... Appellant.

V/s.

1. Public Information Officer,  
The Under Secretary (Personnel - II),  
Secretariat, Porvorim - Goa.
2. First Appellate Authority,  
The Joint Secretary (GA),  
Secretariat, Porvorim - Goa.

..... Respondents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 29/02/2008.

Appellant in person.

Adv. K. L. Bhagat for both the Respondents.

### **ORDER**

This matter has come before us earlier and two orders have been passed on 22/11/2007 and 17/01/2008. The order dated 22/11/2007 was an interim order of issuing notice to third party and next order dated 17/01/2008 is a final order directing the Respondent No. 1 to furnish the information requested by the Appellant on 27/07/2006 within 10 days and also directed the Respondent No. 1 to show cause as to why the penalty of Rs.250/- from 15/10/2006 should not be imposed on him till the information is supplied to the Appellant. In reply to the show cause notice, the Respondent No. 1 who is the Public Information Officer has submitted at para 5 of his reply dated 30/01/2008, "After the order of this Hon'ble Commission, the P.I.O. has for the first time realized that the P.I.O. took wrong decision in rejecting the information to the Appellant". One would expect that after realizing this mistake the Public Information Officer would have given

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the information as directed by the Commission. However, that was not done. Even after passing of the order dated 17/01/2008 by this Commission, the Public Information Officer informed the Appellant on 22/01/2008 that "The available information with this office is already supplied to you as per your request dated 18/04/2007, which is identical to this matter, vide this office letter No.6/2/2006-PER(Part)(i) dated 13/07/2007". He has also stated in the same letter that Appellant is allowed twice to inspect the personal file of Shri. M. Modassir and that he is ready to give any other document from the file, if so requested.

2. A plain reading of the reply of the Public Information Officer to the show cause notice shows that he has either not read our order dated 17/01/2008 or not understood its contents. It is surprising, considering that the order is so very clear and leaves no room for any scope for misinterpretation. We have already mentioned in our earlier two orders that Dr. M. Modassir, the third party in this case, has asked for and obtained various permissions from the competent authorities at the time of his acquiring/ disposing off immovable property while he was in service in Goa before his induction into the IAS. These remarks were made by Dr. Modassir himself in the Annual Property Returns submitted by him at various times, copies of which are requested for and given to the Appellant. By his request dated 27/07/2006, the Appellant did not, we repeat did not, ask for the Annual Property Returns but the permissions sought by Shri. M. Modassir and given to him by the competent authorities to acquire/dispose off those immovable properties. What the Public Information Officer has done earlier is to give the copies of the Annual Property Returns (APRs) by his letter dated 13/07/2007 and not the permissions requested by the Appellant. We do not understand what is the confusion in understanding such a simple request and not giving reasons for refusal of the documents. Instead, to harp on the same point that the documents were already given and that the Appellant was already afforded opportunity for inspection of the personal files of Dr. Modassir is absurd.

3. We, therefore, reject the statement made by the Respondent No. 1 that the information was already furnished to the Appellant requested by his original request dated 27/07/2006 of the Appellant. As he has neither given the documents nor had shown cause for avoiding the penalty, we hold his action is

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malafide and deliberate. The penalty as calculated from 15/10/2007 till date at the rate of Rs.250/- per day already exceed the maximum leviable under section 20 of the Right to Information Act, 2005, Rs.25,000/-. However, we take a lenient view and impose a nominal penalty of Rs.1,000/- (Rupees One Thousand only) on Respondent No. 1, Shri. Vassudev N. Shetye. He is also warned to be more careful in future. This penalty should be recovered from his salary from the month of March, 2008. A copy of this order should be sent to the Director of Accounts for recovery from salary of Shri. Shetye from the month of March, 2008.

Announced in the open court on this 29<sup>th</sup> day of February, 2008.

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

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