

**GOA STATE INFORMATION COMMISSION**

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

Appeal No. 76/2006/PWD/P

Shri. Sushant S. Naik  
H. No. 103, Costi Kalay,  
Sanquem – Goa.

..... Appellant

V/s.

1. Shri Anil A. Parulekar,  
Superintending Surveyor of Works-PWD,  
Altinho, Panaji – Goa

..... Defendant

**CORAM:**

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

(Per A. Venkataratnam)

**Under Section 20 of the RTI Act, 2005 (Central Act 22 of 2005)**

Dated : 27/03/2007

Adv. Karuna Bakre, Legal Officer of PWD – authorized representative of the Defendant. Under section 20 of the RTI Act.

**ORDER**

This order will dispose off the show cause notice issued to Shri Anil A. Parulekar, Superintending Surveyor of Works-PWD, who was the Public Information Officer (PIO) when the application was filed for information on 31-08-2006 by Shri Sushant S. Naik, herein after referred to as Appellant in this case. The show cause notice was issued earlier in the second appeal No. 76/2006/PWD filed by Shri. Sushant S. Naik, and was disposed off by order dated 08/03/2007. The application was given in the office of Assistant Engineer, PWD (Roads), Sanguem, under whose jurisdiction some road works were done in Sanguem taluka where the Appellant resides, regarding the repair/construction of roads. On the date of the application, Shri. Anil A. Parulekar was the PIO and the Executive Engineer of Ponda, Shri S. S. Salelkar, was the APIO. The Assistant Engineer was neither PIO nor Assistant Public Information Officer (APIO). However as mentioned earlier, it is in his jurisdiction the roads were repaired/constructed under the supervision by his subdivision. The information is not yet given by any of the 3 officials even as on today, though it is available

...2/-

in the Sub division office at Sanguem and was forwarded to the APIO by the Assistant Engineer and finally it was submitted by the APIO to the PIO on 30-11-2006. The PIO, that is, Shri. Anil A. Parulekar, Superintending Surveyor of Works-PWD, received the information on 01-12-2006 and endorsed on it " the party has yet to apply to State Public Information Officer (SPIO). -----. File" the 2<sup>nd</sup> sentence is not legible.

2. On the second appeal, the Commission has already ordered the information to be given. On finding that the information is yet to be given to the Appellant, a notice was issued to the PIO to show cause as to why he should not be penalised at Rs. 250 per day from 30-09-2006 onwards until the information is given to the Appellant. He has submitted a reply dated 23-03-2007 that he is designated as the FAA, now, and submitted the following reasons why he is not liable to be penalised in this case.

(i) That he is no longer the PIO and is the first Appellate Authority FAA) w.e.f. 22-12-06 of the P.W.D.,

(ii) That this Commission formed an "opinion" that he refused to give the information hiding behind technicalities "by misunderstanding";

(iii) That the request for application was not received by him and saw a true copy of the application only when it was sent by this Commission enclosing it to the notice alongwith the 2<sup>nd</sup> appeal;

(iv) That neither the Asst. Engineer nor Shri. S. S. Salelkar, Executive Engineer, has forwarded application to him;

(v) That imposing fine on him will cause great injustice to him when he was not even aware that information was asked by the Appellant; and

(vi) The Asst. Engineer should not have received the application in the first instance and that he is "unscrupulous".

Finally he requested the Commission to direct the Executive Engineer to give the information to the Appellant

3. Under section 7 of RTI Act, it is the exclusive responsibility of the PIO to furnish the information. If the information is not available with him, he should take the assistance of any officer of the department to get the information and if that officer fails to co-operate with him in giving the information, the latter will be treated as a PIO and burden of denying that the information is not given, willfully in time, will lie on that Officer. In this case, the PIO came to know that a request for information was made by the Appellant, (though he does not have

actual application). He had the reply to the request for information furnished by the APIO on 30-11-2006 and received by him on 1-12-2006. Thus, he has the statutory responsibility to give the information as he was the PIO. However, he deliberately kept quiet because the application by the appellant did not reach his Office. At this point of time, the Appellant's address was available with him. APIO, who is the Executive Engineer, is one rank lower to the SPIO in the same department. It may be true that the APIO is not directly subordinate to PIO. However nothing prevented SPIO from contacting either Appellant or the APIO, if he wanted to see the application. By not doing so, confirms that he did not wish to give the information though available with him, and not passing it on the same to the Appellant will definitely invite action on him as per section 20 of the RTI Act. The refusal of the PIO to take action on the draft reply dated 30-11-2006 sent by the Executive Engineer will amount to not acting reasonably and diligently in the matter. In any case, he has not discharged the burden of proof that vests in him that he acted reasonably and diligently as required under second proviso to subsection (1) and subsection 20. Shri. Anil A. Parulekar, in his reply to the show cause notice has also blamed the Assistant Engineer for receiving the application under RTI Act, though he is neither PIO nor APIO. It is true that the application for information has to be given either in the office of PIO or APIO under section 6 of the Act. If the application is given in the office of the APIO, the PIO will get another 5 days extra time for reply. This obviously takes into consideration the time involved in sending the application to the PIO. The very idea of appointing the APIO's at the sub-divisional level or Taluka level is to give additional facilities to the citizen to file their requests nearest to their home town. The office of the PIO could be far away from the residence of the citizen. No where in the Act, it has been forbidden that the request for information should not be given in any other office of the department. It may be possible to take a view that the PIO is not personally responsible to give the information within the statutory time limit of 30 days if the application is not handed over in his office or within 35 days if it is handed over in the office of the APIO. But, it cannot be said that the PIO cannot take action on an application if it is given to any Officer other than PIO or APIO but who is from the same department and is concerned with the subject matter of the request like in the present case. In this case the Asst. Engineer, though not the APIO, is an employee of the same department namely, roads wing of the PWD, has his office in the same Taluka where the Appellant lives, his office only has done the work

of construction of roads in Sanguem Taluka for which the information is asked for and finally he has submitted the information to his superior, namely, Executive Engineer who was the APIO at the relevant time. It is not as if the Appellant has given his application to a passer by or a stranger. The argument of Shri Anil A. Parulekar, to the effect that he is not personally responsible for supplying the information to the Appellant as the application is neither given to the PIO nor to the APIO, is therefore, rejected.

4. We hold Shri Anil A. Parulekar, personally responsible for not giving any reply to the Appellant even after receiving the draft reply from the APIO & Executive Engineer on 01-12-2006. The delay caused so far in supplying the information is more than 67 days and Shri Anil A. Parulekar is liable to pay a penalty of more than Rs.16,750/- at the rate of Rs. 250/- per day for each day of delay w.e.f. 1/1/2007. However in view of the particular circumstances of this case, namely, the PIO not having a copy of the request for application till 01-12-2006, we impose a penalty of Rs. 5000/- on Shri Anil A. Parulekar.

5. The Director of Accounts should recover this penalty from the salary of Shri Anil A. Parulekar from the salary of April, 2007 and credit it into appropriate head of account of the PWD immediately, under intimation to the Commission.

(A. Venkataratnam)  
State Chief Information Commissioner

(G. G. Kamblı)  
State Information Commissioner