

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.704 OF 2012**

1. Public Authority,
Office of the Chief Engineer,
WRD, Junta House, Annexe,
2nd Floor, Panaji, Goa.

2. Superintending Engineer,
Circle I, WRD, Junta House,
Annexe, 4th Floor,
Panaji, Goa.

3. The Public Information Officer,
O/o. the Executive Engineer,
WD I, WRD,
Patto, Panaji, Goa.

4. The Assistant Public Information Officer,
O/o. Assistant Engineer,
WDI, Sub Div V, WRD,
Valpoi-Goa.

..... Petitioners.

V/s.

Shri Yeshwant Tolio Sawant,
major of age, Barazan, P.O. Birondem,
Sattari, Goa.

..... Resplendent.

Ms. N. Kholkar, Additional Govt. Advocate for the petitioners.

Mr. D. D. Zaveri, Advocate under the Legal Aid Scheme for the respondent.

CORAM :- M. S. SONAK, J.

Date : - 08/05/2017.

ORAL JUDGMENT

Heard Ms. N. Kholkar, Additional Govt. Advocate for the petitioners and Mr. D. D. Zaveri, Advocate for the respondent, appointed under the Legal Aid Scheme.

2. The challenge, in this petition, has been to the Order dated 23rd December, 2011 made by the Goa State Information Commissioner, imposing penalty of Rs.4,000/- upon the petitioners for delay in submitting information to the respondent.

3. Ms. N. Kholkar, learned Counsel for the petitioners submits that the impugned order itself notes that the delay in furnishing the information in the present case, if any, was only marginal and further the Public Information Officer (PIO) cannot be blamed for the same. She submits that in this case, the information was sought for not from the PIO, or the Assistant Public Information Officer (APIO), but from the Assistant Engineer. She submits that, therefore, there was a marginal delay, which was totally unintentional. In such circumstances, Ms. Kholkar submits that the penalty ought not to have been imposed.

She relies upon a Judgment of this Court in *A. A. Parulekar vs. G.G. Kambli and Shri A. Venkataratnam, and ors.*, Writ Petition No. 364/2007 dated 26/03/2010

4. Mr. D. D. Zaveri, learned Counsel for the respondent, however, submits that there is no dispute whatsoever that there was delay in furnishing the information. He submits that the respondent, who is a rustic Villager, was made to unnecessarily wait for the information which was required to be furnished to him within the time prescribed. Mr. Zaveri submits that the entire purpose of the Right to Information Act is to bring transparency in the functioning of the Government and the information is required to be furnished within the time schedule prescribed, which is required to be adhered to strictly. He points out that the Chief Information Commissioner has rightly noted that a feeling of helplessness is more damaging and a common citizen suffers from the same or falls prey to the same. Mr. Zaveri submits that there is neither any jurisdictional error, nor any other illegality in imposing the penalty on the PIO. He submits that the penalty imposed is virtually nominal and, therefore, this Court will not

interfere with the impugned order.

5. If the impugned order is perused and if the same is considered along with the materials on record, it does appear that the delay in furnishing the information, in the present case, was not really significant. Respondent No.1 had also addressed the application to the Assistant Engineer and not to the PIO or the APIO. Normally, such infraction on the part of the applicant is no reason for the PIO or the APIO not to furnish the required information within the prescribed period. Mr. Zaveri's contention with regard to the purpose of the Right to Information Act and the necessity on the part of the Officials to supply such information within the time schedule prescribed, no doubt, deserves acceptance. Mr. Zaveri's contentions are undisputedly correct and normally laxity in such matters is required to be visited with penalties, so that there is no friction or lethargy in implementation of the provisions of the Right to Information Act.

6. However, in the present case, the learned Chief Information Commissioner has himself noted that the delay was

marginal and further the PIO cannot be blamed for the same. The question, in such a situation, is really not about the quantum of penalty imposed, but imposition of such a penalty is a blot upon the career of the Officer, at least to some extent. In any case, the information was ultimately furnished, though after some marginal delay. In the facts and circumstances of the present case, the explanation for the marginal delay is required to be accepted and in fact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO.

7. For the aforesaid reasons, the impugned order imposing the penalty upon the PIO is, hereby set aside. The amount of penalty which the petitioners have deposited in this Court is normally required to be refunded to the petitioners when the impugned order is set aside.

8. However, Ms. Kholkar, upon suggestion of the Court, has stated that the petitioners will have no objection if, an amount of Rs.1,000/- from out of the amount deposited, is paid to the

respondent as a gesture of goodwill on the part of the petitioners. Accordingly, the petitioners are permitted to withdraw a sum of Rs.3,000/- and a sum of Rs.1,000/- shall be paid to the respondent. The interest accrued on such amount shall be proportionately withdrawn by the petitioners and the respondent. The fair approach of Ms. Kholkar and the services rendered by Mr. D. D. Zaveri, the learned Counsel under the Legal Aid Scheme, are appreciated.

9. The petition is disposed of in the aforesaid terms. There shall be no order as to costs.

M.S. SONAK, J.

ssm.