

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No.101/2012

Mr. Gaurish Shankhwalkar,
Presently working as
Mamlatdar of Mormugao,
Vasco Da Gama, Goa and
Residing at House no:297/1,
Ravalnath Nagar, Mangado,
Corlim-Ilhas-Goa.

... Petitioner

Versus

1. Mr. Domnic D'Souza,
House no. 315/4,
Tropa Vaddo, Sodiem,
Siolim-Goa.

2. Goa Information Commission
Constituted under the provisions of
The Right to Information Act, 2005
Having office at Ground floor,
Shrama Shakti Bhavan,
Patto Plaza, Panaji, Goa.

... Respondents

Mr. S. D. Padiyar, Advocate for the Petitioner.

Coram:- M.S. SONAK, J.

Date:- 4th February 2021

JUDGMENT:

Heard Mr. Padiyar for the Petitioner. The respondent, though served, is neither present nor represented.

2. The challenge in this petition is to the order dated 29.11.2011 made by the State Chief Information Commission (SCIC) imposing penalty of ₹5,000/- upon the petitioner.

3. The records of this case indicate that when the information was applied for by the respondent no.1 the same was factually not available. This is because the respondent had applied for information in relation to the inquiries which were not even held on the date when the information was applied for.

4. The record further reveals that the petitioner himself made efforts to see that the inquiry is ordered and is completed and when the matter was before the Appellate Authority all the information in relation to such inquiry was duly furnished to the respondent no.1. The Appellate Authority vide order dated 12.04.2010 closed the proceedings by observing that “proceedings stand dropped as withdrawn”.

5. Respondent no.1 thereafter, instituted proceedings before the SCIC. There was no clarity as to whether these proceedings were in the nature of appeal or in the nature of penalty proceedings. Even the SCIC has accepted that the information applied for by the respondent no.1 was not available on the date when the application seeking the same was made. However, the SCIC has held that the petitioner

should have been more diligent in informing this fact to the respondent no.1 and on this basis imposed penalty of ₹5,000/-.

6. In the aforesaid circumstances, I do not think that there was any intentional or deliberate delay in the furnish of information. In fact, simply speaking, there was no delay in furnish of the information because the information was not at all available on the date when the application seeking the information was made. In the case of ***Shri A. A. Parulekar v. Goa State Information Commission & another – Writ Petition No.205/2007 decided on 17.09.2009***, this Court has held that unless there is any intentional or deliberate failure to supply information or any intentional or deliberate delay in supplying the same, normally, no penalty should be imposed.

7. For the aforesaid reasons, the impugned judgment and order dated 29.11.2011 is hereby set aside.

8. The Rule is made absolute in the aforesaid terms. There shall be no orders as to costs.

M. S. SONAK, J.