

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITIONS NO. 593, 594 & 595 OF 2022**

Amol Vaman Tilve,
son of Vaman Narayan Tilve,
44 years of age, Indian National,
r/o. Colva, Margao, Salcete, Goa.

... Petitioner.

Versus

1. Goa State Information Commission,
through its Chairman, Kamat Tower,
Seventh Floor, Patto, Panaji, Goa.

2. First Appellate Authority,
Block Development Officer-I,
Room No.223, 2nd Floor,
Mathany Saldhana Complex,
Salcete, Goa.

3. Shri Nevil B. Furtado,
H.No.51, Copelwado,
Sernabatim, Salcete, Goa.

... Respondents.

Mr Anthony D'Silva, Advocate for the Petitioner.

Ms S. Nishad, Advocate for Respondent No.3.

CORAM : M. S. SONAK, J.

DATE : 21ST SEPTEMBER 2023

ORAL JUDGMENT :

1. Heard Mr D'Silva for the Petitioner in all these Petitions. Ms Nishad appears for Respondent No.3-contesting Respondent in all these Petitions.

2. Since substantially common issues of fact arise in all these three Petitions, the learned Counsel for the parties agree that a

common judgment and order can dispose of all these Petitions. Accordingly, Rule in each of these Petitions. The rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. In all these Petitions, the challenge is to the orders made by the Goa State Information Commission (GSIC), imposing penalties of ₹5,000/-, ₹3,000/- and ₹3,000/- respectively, upon the Petitioner for delaying furnish of the information to Respondent No.3.

4. Mr. D'Silva, learned Counsel for the Petitioner, submits that the impugned orders violate the principles of natural justice because no adequate hearing was afforded to the Petitioner before imposing the penalties. Besides, he pointed out that the penalty proceedings were initiated during the COVID-19 Pandemic, and the GSIC made no allowance for this significant circumstance.

5. Mr D'Silva submitted that the information sought was vague, like a fishing inquiry. He presents that the Petitioner explained the delay in furnishing such information. In such circumstances, Mr D'Silva submits that the GSIC exceeded jurisdiction in imposing the penalties upon the Petitioner.

6. Ms Nishad, learned Counsel for Respondent No.3, defended the impugned orders based upon the reasoning reflected therein. She points out that a detailed affidavit is filed on behalf of Respondent No.3 in Writ Petition No. 594/2022 and connected matters. She pointed out how there was a delay at every step. She pointed out how no information was furnished despite the orders by the First Appellate Authority. She submits that there is no error,

much less any jurisdictional error, calling for interference under Article 227 of the Constitution.

7. Rival contentions now fall for my determination.

8. On perusing the impugned orders, no case for interference under Article 227 of the Constitution is made out by or on behalf of the Petitioner.

9. The record indicates that Respondent No.3's application seeking information was not attended to within the prescribed timeline under the Right to Information Act (RTI). On account of this, Respondent No.3 instituted a first appeal based on a deemed rejection of his application for information. The first appeal was eventually allowed, and the Petitioner was given directions to furnish the necessary information.

10. Despite directions of the First Appellate Authority, the Petitioner did not bother to furnish the information. As a result, Respondent No.3 was forced to institute a second appeal. Even this second appeal was allowed by the GSIC, and proceedings were taken out against the Petitioner for imposition of penalty. It was only then that the information was supplied.

11. The Petitioner, as was pointed out by Mr D'Silva, filed a reply in the penalty proceedings. This is not a case where the Petitioner was denied any opportunity for a hearing. Any objections based upon violation of principles of natural justice cannot be raised as a mere technical objection, particularly in a case where sufficient notice was issued to the Petitioner and the Petitioner also filed his reply in the penalty proceedings. The impugned orders have been made after considering the cause

shown by the Petitioner. No prejudice was even attempted to be demonstrated.

12. Since a grievance was made about inadequate opportunity, this Court heard Mr D'Silva and perused the reply filed on behalf of the Petitioner. In the response, nowhere has the Petitioner referred to handicaps because of the COVID-19 Pandemic. Instead, the entire emphasis of the reply is on how the Petitioner was allegedly busy attending to other matters, due to which the Petitioner could not furnish the information sought by Respondent No.3 within the statutory timeline.

13. In paragraph 1 of the Petitioner's reply dated 5/3/2020, the Petitioner refers to his being busy attending to certain directions issued by this Court concerning the issue of garbage disposal. In paragraph 2, the Petitioner refers to making arrangements for the "Fama Festival" and conducting fortnightly meetings of Panchayat. In paragraph 3, the Petitioner refers to a show cause notice from the South Goa Collector on the issue of why the land allotted to the Panchayat or construction of Panchayat Ghar should not be reverted to the Government because the Panchayat failed to construct the Panchayat Ghar on the allotted land.

14. The Petitioner's reply is quite aggressive since he alleges that Respondent No.3, despite being aware of how the Petitioner was busy, has been "*blatantly misusing the R.T.I. by filing applications after applications, seeking various information as a tool to harass the undersigned.*" The Petitioner has alleged that Respondent No.3 did not want the Petitioner to function as the Village Panchayat

Secretary but wanted another person of his choice to serve as the Secretary.

15. Therefore, the COVID-19 Pandemic was not at all the cause for which the Petitioner delayed supplying the information to Respondent No.3. The other reasons cited by the Petitioner, and considered by the GSIC hardly constitute any good cause for not even attending to the application under RTI within the statutory timeline or even after appeal and the second appeal was allowed. The reasons, even assuming them to be genuine, did not prevent the Petitioner from furnishing the information applied within the prescribed timeline or at least within some reasonable time. The Petitioner either was most reluctant to furnish the information sought or was too casual about the matter. Either way, penalties were due. Respondent No.3 had to struggle to obtain the information which should have been furnished within the timeline.

16. If, after considering the cause shown, the GSIC has imposed the penalties which, in my judgment, are quite paltry, no case is made out to warrant interference with the GSIC's reasoned orders. The reasons cited by the Petitioner are not valid reasons for non-compliance with the statutory timelines prescribed under the RTI Act. Based upon such reasons and by alleging some sort of mala fides against Respondent No.3, the Petitioner was not justified in not discharging his statutory duties within the statutorily prescribed timelines. The allegations of malafide are vague. The allegations cannot excuse the Petitioner from not adhering to the statutory timelines. The information sought was specific. If the Petitioner felt that such information was not due or that he did not have such information, the application could have been disposed

off by saying so. Here, the Petitioner did not even bother to attend to the application. For all the above reasons, these Petitions are liable to be dismissed and are hereby, dismissed.

17. Mr D'Silva was unable to make a statement about whether the Petitioner has paid the penalty amounts to Respondent No.3. Accordingly, the Petitioner is directed to pay the penalty amounts, if not already paid, to Respondent No.3 in each of these Petitions, within four weeks from today. The Petitioner must file a compliance report.

18. Mr D'Silva states, if the amounts are not paid, necessary demand drafts in the name of Respondent No.3 will be handed over to Ms Nishad, learned Counsel for Respondent No.3 within four weeks from today. Ms Nishad states that she will hand over the demand drafts to Respondent No.3 no sooner they are received.

19. If no compliance report, along with the proof of payment is filed by the Petitioner within four weeks from today, the Registry to put up the matter for directions on 27th October 2023.

20. Rule is accordingly discharged in each of these Petitions, without any order for costs.

M. S. SONAK, J.

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