

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Penalty No. 60/2023**

**In**

**Appeal No. 300/2023/SIC**

Mr. Vincent Mascarenhas,  
H. No. 55, Khalachawada Arambol,  
Pernem-Goa 403524.

-----Appellant

**v/s**

1. The Public Information Officer,  
Goa Tourism Department,  
Government of Goa,  
Panaji-Goa 403001.

2. First Appellate Authority,  
Department of Tourism,  
Government of Goa,  
Panaji-Goa.

-----Respondents

**Relevant dates emerging from penalty proceeding:**

Order passed in Appeal No. 300/2023/SIC	: 18/12/2023
Show cause notice issued to PIO	: 29/12/2023
Beginning of penalty proceeding	: 15/01/2024
Decided on	: 15/01/2024

**ORDER**

1. Penalty proceeding against respondent Shri. Pradeep Binnar, Public Information Officer (PIO), Assistant Director of Tourism, Govt. of Goa has been initiated vide Show Cause Notice dated 29/12/2023, issued under Section 20 (1) and 20 (2) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') for contravention of Section 7 (1) of the Act.
2. The Commission has discussed complete details of this case in the order dated 18/12/2023. Nevertheless, the facts are reiterated in brief in order to appraise the matter in its proper perspective.
3. Being aggrieved by non-receipt of information and non disposal of first appeal, the appellant had filed second appeal before the Commission. After due proceeding, the Commission disposed the appeal vide order dated 18/12/2023. The Commission observed that the PIO, inspite of receipt of notice, did not attend the proceeding, nor filed any reply. It is held that, the PIO is guilty of contravention

of Section 7 (1) of the Act for not furnishing the information within 30 days from receipt of the application and the said conduct of the PIO needs to be punished. Thus, Show Cause Notice was issued to the PIO seeking his reply as to why action as contemplated under Section 20 (1) and / or 20 (2) of the Act should not be initiated against him.

4. Penalty proceeding was initiated against Shri. Pradeep Binnar, PIO. PIO appeared in person on 15/01/2024 and filed reply alongwith enclosures.
5. PIO stated that, the information sought by the appellant was pertaining to different sections of his Department, so also agencies associated with the Department and he could not furnish the information since replies were not received from concerned sections. PIO further stated that, he has been holding additional charge of two other sections and due to exigency of work and preparation for the upcoming tourist season, he could not attend the hearings before the Commission.
6. Shri. Pradeep Binnar, PIO submitted that, he has taken efforts in obtaining the information from the concerned sections and furnished the same to the appellant vide letter dated 20/12/2023, which has been received by the appellant. PIO, while praying for withdrawal of Show Cause Notice, stated that, there was no malafide intention on his part to suppress and deny the information.
7. Upon perusal, it is seen that, the PIO was held guilty of not furnishing any information to the appellant. However, the Commission notes that the PIO, upon the direction of the Commission, has furnished point-wise information and same has been received by the appellant. The Commission finds that the PIO was actually over burdened due to exigency of work and the upcoming tourist season. Similarly, no malafide can be attributed to the intension of the PIO since he has furnished the information.
8. Hon'ble High Court of Bombay at Goa in Writ Petition No. 704 of 2012 (Public Authority and others V/s Shri. Yeshwant Tolio Sawant) has held that:-

“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 infact, has been accepted by the learned Chief Information Commissioner. In such circumstances, therefore, no penalty ought to have been imposed upon the PIO.”

9. Hon’ble High Court of Bombay at Goa Bench, in Writ Petition No. 205/2007, Shri. A. A. Parulekar V/s Goa State Information Commission, has held that:-

“The Order of Penalty for failure is akin to action under Criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate.”

10. Subscribing to the ratio laid down by the Hon’ble High Court and considering the facts of the present case, the Commission concludes that invoking Section 20 of the Act against the PIO is not required and the present penalty proceeding needs to be closed accordingly.
11. Hence, the Show Cause Notice issued against Shri. Pradeep Binnar, PIO stands withdrawn and the penalty proceeding is dropped. The matter is disposed and the proceeding stands closed.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the order should be given to the parties free of cost.

Aggrieved party if any, may move against this order by way of a Writ Petition, as no further appeal is provided against this order under the Right to Information Act, 2005.

Sd/-  
**Sanjay N. Dhavalikar**  
State Information Commissioner  
Goa State Information Commission  
Panaji - Goa