

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NO. 449 OF 2007**

1. Shekhar Prabhudessai  
Public Information Officer,  
The Superintendent of Police,  
South Goa, Margao.
2. Tony M. Fernandes,  
Assistant PIO,  
Margao, Goa. .... Petitioners

***V e r s u s***

1. Shri Samiro Pereira,  
R/o. H. No. 50,  
Orlim Gontonaik Vaddo,  
Salcete, Goa.
2. Goa State Information Commission,  
At Panaji constituted with two members  
Having its office at ground floor,  
Shramashakti Bhavan, patto  
Panaji-Goa. .... Respondents

Mr. E. Afonso, Government Advocate for the Petitioners.

**Coram :- F. M. REIS, J**

**Date : 11<sup>th</sup> February, 2013.**

**ORAL JUDGMENT**

Heard Shri Afonso, learned Counsel appearing for the Petitioners.  
None for the Respondents, though served.

2. The above Petition challenges an Order passed by the State Information Commission dated 14.06.2007, whereby both the Petitioners have

been directed to pay penalty/fine of Rs.5,000/- each in terms of the provisions of Section 20 of The Right to Information Act, 2005, (for short 'said Act')

3. Briefly, the facts of the case are that the Respondents sought information from the Petitioners in connection with some complaints lodged at different Police Station. The subject matter of dispute in the present Writ Petition is the information sought from the Petitioner no. 1, who was a Public Information Officer and the Petitioner no.2 was an Assistant Public Information Officer. On receipt of the said application, the matter was made over to the Petitioner no.2 by the Petitioner no.1 on 21.08.2006. The application filed by the Respondent no.1 was dated 17.08.2006. Immediately, thereafter, on 22.08.2006, the Petitioner no.2 sought information from the concerned Colva Police Station with regard to the information sought by the Respondent. Thereafter, reminders were sent to the said Police Station to remit such information and ultimately, it appears that somewhere in January, 2007, the information was supplied to the Respondent no.1. In the meanwhile, the Respondent no.1 preferred an Appeal before the First Appellate Authority alleging that the information sought by the Respondent no.1 has not been supplied by the Petitioners. The Appeal came to be allowed and the Petitioners were directed to furnish such information. Despite of such direction, the Respondent no.1 preferred a Second Appeal before the State Information Commission alleging that despite of the Orders passed by the First Appellate Authority, some of the information was not supplied. Nevertheless, it appears that in the meanwhile the information was duly supplied and the Respondent no.1 being satisfied with such information, sought to withdraw the Appeal before the State

Information Commission. The Commission did not find any deficiency in the supply of the information but, however, as Respondent no.2 found that there was delay in supplying such information, a show cause notice was issued to the Petitioners as to why penalty should not be imposed in terms of Section 20 of the said Act. A reply to the said show cause notice was filed by the Petitioners, but, however, the Respondent no.2 by the impugned Order dated 14.06.2007, imposed a penalty/fine of a sum of Rs.5,000/- on each of the Petitions. Being aggrieved by the said Order, the Petitioners have preferred the present Petition.

4. Shri E. Afonso, learned Government Advocate appearing for the Petitioners, has pointed out that in terms of Section 5 of the said Act, the persons from whom the information was sought by the Assistant Public Information Officer are deemed to be Information Officers and, as such, considering that the information was sought from the Colva Police Station, the officials therein were deemed to be Public Information Officers. Learned Counsel as such pointed out that any default in supplying such information is on account of the breach committed by such Officers at the Colva Police Station. Learned Counsel has taken me through the definition of the Right to Information and pointed out that even the Assistant Public Officer is a Public Information Officer as such, the Respondent no.2 was not justified to impose fine on the Petitioners. Learned Counsel further pointed out that in any event, such penalty/fine is to be imposed only in cases in which there was no reasonable cause shown by the Petitioners for such delay in furnishing such information. Learned Counsel has taken me through the affidavit and pointed out that the averments therein reveal that in fact the

Respondent no.2 immediately upon receipt of the complaint lodged by the Respondent no.1, took necessary steps to call for the information from the concerned Colva Police Station. Learned Government Advocate further pointed out that even reminders were sent to the concerned Police Station to furnish such information. Learned Counsel as such submits that there was reasonable cause for the delay and, as such, the question of imposing any penalty/fine on the Petitioners is totally misplaced. Learned Counsel as such submits that the impugned Order to the extent of imposing of penalty/fine to the Petitioners, be quashed and set aside.

5. I have carefully considered the submissions of the learned Counsel. No doubt, in terms of Section 5 of the said Act, the Officials who have been asked to submit the information to the Public Information Officer are deemed to be Public Information Officers. But, however, in the present case, on perusal of the affidavit filed by the Petitioner no.2, I find that the Petitioners immediately upon receipt of the application dated 17.08.2006 seeking information by the Respondent no.1 called upon the Colva Police Station on 22.08.2006 to supply such information. Para 4 of the said affidavit further discloses that reminders on that count were sent to the concerned Police Station. Para 5 of the said affidavit also states the steps taken by the Petitioner no.2 to obtain such information from the concerned Police Station. In such circumstances, I find that the Tribunal was not justified to impose a penalty/fine of Rs.5,000/- each to the Petitioners. On perusal of the affidavit, the facts narrated therein have not been disputed and, as such, the Petitioners appear to have had a reasonable cause for the delay in supplying the information. The

information admittedly was not with the Petitioner no.2 and they had to rely upon the supply of such information from the concerned Police Station. In overall facts and circumstances of the case, I find that the said Order dated 14.06.2007, passed by the Respondent no.2, to the extent of imposing penalty/fine of Rs.5,000/- on the Petitioners, cannot be sustained and deserves to be quashed and set aside. Section 20 of the said Act clearly provides that in case reasonable cause is shown, the delay can be condoned. In the peculiar facts and circumstances of the case and taking note of the fact that the information had to be obtained from the Colva Police Station, I find that the Petitioners have shown reasonable cause in the delay in supplying such information.

6. Shri E. Afonso, learned Government Advocate appearing for the Petitioners, pointed out that action has also been initiated against the concerned officials on account of such lapse and it is expected that such action be taken to its logical condition.

7. In view of the above, the penalty/fine of Rs.5,000/- imposed on the Petitioners by Order dated 14.06.2007, is quashed and set aside.

8. Rule is made absolute in the above terms.

**F .M. REIS, J.**

arp/\*