

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Ms. Pratima Vernekar & Shri Juino De Souza.
State Information Commissioners

Complaint No: 28/SIC/2011

Joan Mascarenhas E. D'Souza,
H. No.315/4, TropaVaddo,
V.P. Sodiem - Siolim

..... Complainant

V/s.

The Public Information Officer,
Superintendent of Police(North),
Porvorim – Goa.

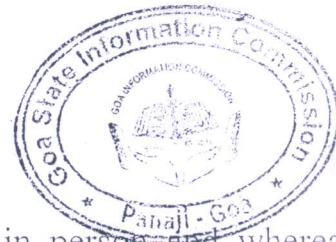
..... Opponent

Relevant emerging dates:

Date of Hearing : 24-02-2016

Date of Decision : 24-02-2016

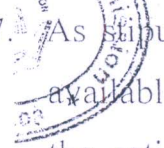
ORDER



1. The Complainant Mrs. Joan Mascarenhas present in person and whereas the Respondent PIO of the Public Authority, Supdt. Of Police, North Goa is represented by Mr. Tushar Lotlikar, Police Inspector currently attached to Mapusa Police Station.
2. During the hearing the Complainant submits that the information submitted by PIO is incomplete and incorrect and that this Commission had asked her to prove that the information furnished was incorrect. The Complainant is therefore before the Commission for the purpose of the enquiry.
3. On perusal of the file it is observed that by an Order dated 6/6/2012 this commission had partly allowing the complaint while in the same breath also stating that no intervention of commission was required as far as information was concerned and that it is for the complainant to prove that the information furnished is incorrect and accordingly the date was given for conducting enquiry.
4. The Commission on examination of records in the file observes that this is a matter of the year 2011 and it is beyond the scope of the commission to function as a Trial Court by asking the complainant to prove her case in the year 2016 (after a lapse of five years)and conducting an enquiry to ascertain whether the information

furnished by the PIO to the Complainant is wrong or right is not only a long drawn time consuming process that may take years for the enquiry to conclude but will also harass the Complainant with delays and unnecessary expenditure, besides not serving any useful purpose and will be an exercise in futility.

5. No doubt while inquiring into a complaint under Section 18, the commission has the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (*Judgment of the Supreme Court in the case Chief Information Commr. and Another State of Manipur supra ..para 29*)
6. The Commission while conducting an enquiry will have to follow the prescribed procedure under the Indian Evidence Act including: summoning and enforcing the attendance of persons and compelling them to give oral or written evidence on oath and to produce documents or things; requiring the discovery and inspection of documents; receiving evidence on affidavit; requisitioning any public record or copies thereof from any court or office; issuing summons for examination of witnesses or documents; and any other matter which may be prescribed.



7. As stipulated in the RTI Act the role of the PIO is to provide information as available from the records. Regrettably the PIO cannot procure information for the satisfaction of the Appellant/ Complainant. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

8. The PIO or the APIO is not authorized to give any information which is non-existent nor can he create or analyze the information correctly as per the whims and fancies of the Appellant/ Complainant. The PIO is only called upon to supply information accurately in accordance with record available without conceding or withholding any information. It is not a case where the PIO has denied the request

for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information.

9. The very fact that the Commission in its Order 6/6/2012 has held in its findings that no intervention is required as far as information was concerned is sufficient to prove the bonafide that the PIO has acted reasonably and diligently and that he has furnished information as was available and as it existed as per the records available and which is the mandate of the RTI Act.
10. Therefore we are of the view that after arriving at such conclusion the Commission should have closed the complaint instead of ordering a one sided enquiry by making the Appellant / Complainant to prove her case and which decision in our considered opinion seems erroneous and suffers from legal infirmity.
11. We therefore find it prudent to recall the part order dated 06/06/2012 and accordingly order the enquiry proceedings to be closed. With these observations the Complaint case is closed.
12. The complainant if so advised can seek other legal remedies to agitate her grievance that the information furnished was incorrect and misleading before the appropriate forum in accordance with law.
13. We make it clear that this Order will not come in the way of the Commission inquiring into a complaint filed under section 18 if the findings so deserve an enquiry.

Pronounced in open court at conclusion of the hearing before the parties who are present. Notify the parties concerned. Authenticated copies of the order be given free of cost.



(Pratima Vernekar)

State Information Commissioner



(Juino De Souza)

State Information Commissioner

Under Secretary