

**GOA STATE INFORMATION COMMISSION**

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

**CORAM: Shri Juino De Souza State Information Commissioner**

**Complaint No. 31/SCIC/2012** / 247

Shri. Anil Raghuvir Chodankar  
Vaikunth Niwas  
Opp. PWD (Water Supply)  
Baina, Vasco da Gama.

**..... Complainant**

**v/s**

The Public Information Officer  
Executive Engineer  
Works Division IX  
Public Works Department  
Fatorda, Margao- 403602.

**.....Opponent/ Respondent**

**Relevant emerging dates:**

Date of Hearing : 15-06-2016

Date of Decision : 15-06-2016

**ORDER**



1. The brief facts of the case are that the Complainant had sought certain information from the Respondent PIO vide two separate applications both dated 25/11/2011. The information in Application No.1 is seeking information on nine different points and in Application No.2 on seven different points. The information is asked in form of questions using words like "Whether", "Details", "List of work" and other such questions.
2. It is the case of the Complainant that the PIO has failed to give the requested information within stipulated time. However it is seen that the Asst. Engineer Sub Division I, Works Division IX, PWD, Baina – Vasco who was supposedly the APIO had vide his letter dated 22/12/2011 requested the Complainant to meet the undersigned (APIO/ Asst. Eng.) during office hours after taking prior appointment regarding seeking of the relevant information.
3. It is further seen that the Complainant meanwhile addressed another letter dated 30/12/2011 to the APIO stating "I would like to bring to your kind notice that you are not declared as Information Officer under the Act and hence the question does not arise to meet you with your prior appointment to get the relevant information asked by the undersigned. It is the duty of the designated Information Officer under the Act to give information in writing and not verbally by an under-designated officer".

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4. It is further seen that vide letter dated 09/01/2012 the PIO subsequently sent a letter to the APIO requesting the APIO to send the required information to the office of the PIO on or before 10/01/2012.
5. Being aggrieved the Complainant has come directly in a Complaint under Section 18 of the RTI At before this Commission and in his prayer has sought directions that the Respondent PIO be ordered to give the required information within 4 days and other reliefs including fine of Rs. 10,000/- the amount of which is to be paid for mental torture to the Complainant.
6. During the hearing the Complainant is absent despite advance notice sent by Registered Post (RPAD) without intimation to this Commission. The Respondent PIO is represented by APIO Shri. Vishwambhar Bhende , Assistant Engineer, PWD.
7. The Respondent APIO submits that both the Complainant filed two separate applications on the same date asking information in the form of questions which does not constitute as "information" under Section 2(f) of the RTI Act.
8. The APIO also submits that the Complainant was called to the Office of the APIO regarding the information sought by him but he did not turn up. Further the Complainant did not even file a First Appeal before the FAA and instead came directly in a complaint seeking directions that information should be furnished to him. The APIO also submits that during the hearing before this Commission on 07/06/2012 a reply was filed by the PIO wherein information was furnished on all nine different points with reference to the First application of the complainant which is already on record of the file.
9. The Commission upon scrutiny of the file observes that indeed the complainant has sought information in question form using words like "Whether", "Details", "List of work" and as correctly stated by the PIO does not constitute as "information" under Section 2(f) of the RTI Act. Further the Complainant has also not complied with the request of the APIO as per his letter dated 22/12/2011.

10. The Complainant has also not exhausted the remedy of First Appeal before the First Appellate Authority and has directly approached this Commission in a Complaint under Section 18 and is seeking directions to the PIO to furnish information and such directions to furnish information cannot be given in a Complainant case.

11. The Supreme Court of India in the case of Chief Information Commissioner and another v/s State of Manipur and another (Civil Appeal No. 10787-10788 of 2011) has held as follows:

*"Therefore, the procedure contemplated under Section 18 and Section 19 of the said Act is substantially different. The nature of the power under Section 18 is supervisory in character whereas the procedure under Section 19 is an appellate procedure and a person who is aggrieved by refusal in receiving the information which he has sought for can only seek redress in the manner provided in the statute, namely, by following the procedure under Section 19. This Court is, therefore, of the opinion that Section 7 read with Section 19 provides a complete statutory mechanism to a person who is aggrieved by refusal to receive information. Such person has to get the information by following the aforesaid statutory provisions. The contention of the appellant that information can be accessed through Section 18 is contrary to the express provision of Section 19 of the Act. It is well known when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the Court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. It is a time honoured principle as early as from the decision in Taylor v. Taylor [(1876) 1 Ch. D. 426] that where statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden."*

12. The Complaint case stands closed. The Complainant is at liberty to file a First Appeal under Section 19(1) of the Act within 60 days of the date of this Order. If such an Appeal is filed, the FAA shall decide the same on merits in accordance with law, without insisting on the period of limitation. The rights of the Complainant herein to file a Complaint before the commission in case the Complainant is aggrieved by the Order of the FAA in such Appeal, is kept open. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned.

Authenticated copies of the Order be given free of cost.

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**(Juino De Souza)**  
**State Information Commissioner**

*(Signature)*