

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Shri Juino De Souza State Information Commissioner

Complaint No.
32/SIC/2012

Shri. Ramkrishna Narayan Umarye
H. No. 56, Patkal
Konkirem, Sattari- Goa.

..... Complainant

v/s

1. The Public Information Officer
The Asst. Registrar of Cooperative Societies
Central Zone, Sahakar Bhavan
1st Floor, Opp. Municipal Market, Panaji- Goa.

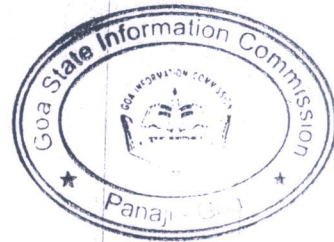
2. The Secretary/ Chairman
Coelho Apartments Co-Op. Housing Society
Ltd.
Sadar, Ponda- Goa.

.... Respondent/Opponent

Relevant emerging dates:

Date of Hearing : 02-06-2016

Date of Decision : 02-06-2016



ORDER

1. The brief facts of the case are that the Complainant vide an application dated 03/08/2011 had sought certain information from the Respondent/ Opponent No. 2, the Secretary/ Chairman of the Coelho Apartments Co-Operative Housing Society Ltd., Sadar- Ponda. The Complainant had subsequently made another application dated 08/08/2011 to the same Respondent / Opponent seeking information regarding the fees payable for obtaining the said information.
2. However the Respondent/ Opponent No. 2 did not reply nor provided any information to the Complainant. Therefore the Complainant thereafter sent a letter dated 26/09/2011 addressed to the Respondent/ Opponent No. 1 who is the Asstt. Reg. Coop Socy, Central Zone, Panaji-Goa, praying that the Respondent/ Opponent No. 2 be directed to furnish the said information to the Complainant.
3. The Respondent/ Opponent No.1 also had vide letter dated 18/10/2011 directed the Respondent/ Opponent No. 2 to furnish the information on payment of the necessary fees. However, the Respondent/ Opponent No. 2 did not provide any information.

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4. Subsequently, the Complainant once again vide letter dated 31/10/2011 requested the Respondent/ Opponent No. 2 to furnish the same information. The Complainant also sent a letter dated 05/12/2011 to the Respondent/ Opponent No. 1 stating that the Respondent/ Opponent No.2 had not yet furnished any information despite directions from Respondent / Opponent No. 1. It is seen that the Respondent/ Opponent No.1 sent a reply dated 12/01/2012 stating that since Respondent/ Opponent No. 2 has failed to provide information, the Complainant may approach the proper authority as was mentioned in his letter dated 05/12/2011.
5. The Complainant then preferred a Complaint before this Commission on 09/02/2012 and in terms of his prayer (a) has prayed that the records and proceedings before the Opponents (PIO) to be called for the Complainant/ Appellant free of charge since Opponents have failed to provide the same within the specified time period. In other words, the Complainant has prayed that the Commission direct the PIO to provide him the information free of cost. Besides this the Complainant has also prayed for other reliefs including penalty and disciplinary action.
6. During the hearing, the Complainant is absent despite advance notice sent by Registered Post (RPAD) without intimation to this Commission. It is seen from the roznama that the Complainant has remained continuously absent right since 07/06/2012 and it appears that the Complainant is no longer interested in pursuing his complaint case. The Respondent PIO No. 1 Smt. Pratima J. Braganza who is present in person submits that all information as available has been furnished to the Complainant and nothing survives in the Complaint.
7. The Commission on perusing the file observes that the Complainant after being aggrieved with the PIO's reply did not approach the First Appellant Authority (FAA) and instead directly preferred a Complaint before this Commission. It is also observed that the complainant in his RTI application dated 26-09-2011 has not paid fees of Rs. 10/-
8. It is pertinent to note that the Hon'ble Supreme Court in the case of **Chief Information Commissioner & Anr. v/s State of Manipur & Anr. (Civil Appeal No. 10787-10788 of 2011)** has observed the following:

"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."

9. The Commission comes to the conclusion that as the Complainant has not exhausted his remedy of First Appeal and has come directly in Complaint under Section 18, it is not possible for the Commission to give directions to the Respondent PIO to furnish information in a complaint case and that such a direction is possible only under section 19 of the RTI Act. As such the Complainant is given liberty to approach the FAA and file a proper First Appeal as per 19(1) of the RTI Act within forty-five days of date of this Order if he so desires.
10. In case such an appeal is filed, the FAA shall decide the same on merits in accordance with law without insisting on the period of limitation which stands waived. The rights of the Complainant to thereafter file a complaint case under section 18 if aggrieved by the order of the FAA is kept open.

The Complaint Case accordingly stands disposed off. All proceedings in the Complaint case stand closed. 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.



sdh
(Juino De Souza)
State Information Commissioner

