

# GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza State Information Commissioner.

Complaint No. 33/SIC/2011

Shri Nitin Y. Patekar,  
369, Oshalbag, Dhargal,  
Pedne – Goa.

..... Complainant

v/s

Public Information Officer,  
Executive Engineer,  
Works Division XIII( R)  
Public Works Department,  
Mapusa – Goa

..... Respondent

**Relevant emerging dates:**

Date of Hearing : 19-05-2016

Date of Decision : 19-05-2016



## ORDER

1. Brief facts of the case are that the Complainant had vide his letter dated 13/01/2011 sought certain information from the Respondent PIO, o/o Executive Engineer, Works Division XIII (R), Public Works Dept., Mapusa-Goa regarding funds transferred from the Directorate of Panchayats since 01-06-2007 till the date of his application for the development of Dhargal Assembly Constituency. In that regard, the Complainant specifically sought the following:
  - a) The date wise amount sanctioned/ transferred.
  - b) The provision/ remarks/ cabinet decision under which the fund had been transferred from the Directorate of Panchayats.
  - c) Details such as resolution, name of works, estimate, approvals, fund sanctions, work order, M.B. and payments made in respect of each work carried out by using the fund so transferred.
2. The PIO vide letter 07/02/2011 No. PWD/WD XIII(R)/Adm-85/10-11/1685 sent a reply to the Complainant that since the information sought was voluminous and massive in nature, the Complainant was requested to visit the PIO's office on any working day after prior appointment and inspect the documents and obtain copies after paying necessary charges.

3. The Complainant however neglected to visit the Respondent PIO's office nor showed any interest for carrying out inspection of the documents and instead preferred a direct Complaint with this Commission on 21/02/2011 stating that the PIO had not furnished him any information to him.
4. During the hearing, the Complainant is present in person. The Respondent PIO is represented by APIO Shri. Atmaram Gowde is also present.
5. The Complainant in his submission before this Commission states that he is still interested in receiving information as sought and if the same is provided to him, he is willing to drop the complaint. The Respondent APIO per contra submits that the information sought was voluminous and massive in nature and that a letter dated 07/02/2011 bearing No. PWD/WD XIII(R)/Adm-85/10-11/1685, was sent to the Complainant requesting him to attend the office of the PIO for inspection of the documents and obtain Xerox copies of the documents on payment of necessary charges. However, the Complainant neither approached the PIO for inspection nor showed any interest in obtaining copies of the information sought.
6. The Complainant when questioned by the commission was frank enough to admit that he did not approach the PIO to inspect the documents and obtain Xerox copies of the same.
7. The Commission upon scrutiny of the Complaint file observes that the PIO had sent a reply to the Complainant's application seeking information well within the prescribed time period. However it is the Complainant who has faulted by neglecting to seek inspection of the documents. Further the prayer of the Complainant asking that the PIO should furnish information to him cannot be granted here as in a Complaint case under Section 18, the Commission has no powers to issue such directions. \
8. The Complainant should have filed a proper Appeal under Section 19 (1) before the First Appellate Authority (FAA) and thereafter under 19(3) before the Commission in a Second Appeal and which he has failed to do.

The Hon'ble Supreme Court in CIC vs. State of Manipur & Ors has held:

*Section 18 of the Act, to the extent it is relevant provides that it shall be the duty of the Commission to receive and enquire into a complaint from any person who has been refused access to any information requested under the Act or who has not been given a response to a request for information or access to information within the time limits specified under the Act. It is, therefore, obligatory for the Commission to decide such a complaint on merit instead of simply directing the CPIO to provide information which the complainant had sought. If the Commission finds that the CPIO had without reasonable cause refused to receive an application for information or had not furnished information within the prescribed time or had given incorrect, incomplete or misleading information, it is required to impose prescribed penalty upon such a CPIO/SPIO, as the case may be.*

*Section 19 of the Act, on the other hand, provides for a first appeal to the First Appellate Authority under Sub-section (1) and a Second Appeal to the Commission under Sub-section (3) of the aforesaid Section. Sub-section (8) of the aforesaid Act deals with the power of the Commission with respect to the appeals preferred in terms of Sub-section (3) of the said Section and reads as under:-In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,-*

*(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including- (i) by providing access to information, if so requested, in a particular form; (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be; (iii) by publishing certain information or categories of information; (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records; (v) by enhancing the provision of training on the right to information for its officials; (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4; (b) require the public authority to compensate the complainant for any loss or other detriment suffered; (c) impose any of the penalties provided under this Act; (d) reject the application.*

9. A closer scrutiny of the ingredients clearly point out that while the State Information Commission has no power to direct the PIO to furnish information in a matter before it under Section 18 of the Act since such power is granted under Section 19 of the RTI Act which is an purely an Appellate procedure. As such the Complaint being devoid of any merit stands dismissed.

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.




(Juino De Souza)

State Information Commissioner