

GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza State Information Commissioner.

Complaint No. 151/SCIC/2011

Smt. Joan Mascarenhas e D'Souza,
R/o.H.No.315/4, Tropa Vaddo,
Sodiem – Goa.

..... Complainant

v/s

Public Information Officer,
V.P. Secretary,
Village Panchayat of Sodiem,
Sodiem, Siolim, Bardez – Goa.

..... Respondent

Relevant emerging dates:

Date of Hearing : 16-05-2016

Date of Decision : 16-05-2016

O R D E R



1. Brief facts of the case are that the Complainant had filed an application dated 03/02/2011 seeking certain information regarding property bearing Sy. No. 215/2 recorded in the name of Shri. Maggie Carvalho and the H. No. 331/4 of V.P. Sodiem, Siolim. The PIO vide reply dated 03/03/2011, had furnished some information. Then subsequently, the Complainant filed one more application dated 16/03/2011 which was further replied by the PIO vide letter dated 13/04/2011. The Complainant filed a third application 25/04/2011 which was also replied by the PIO vide letter dated 23/05/2011.
2. It is the case of the Complainant that the information furnished by the PIO was incomplete on the grounds of non-availability of the same in the records of the public authority and being aggrieved had preferred a First Appeal on 27/05/2011 and the FAA vide his four line order on the roznama dated 24/06/2011 held that since the PIO has filed reply and provided information the matter stands dropped.

3. The Complainant thereafter being aggrieved filed a complaint before this Commission 17-10-2011 praying that the Director/ Deputy Director be ordered to conduct the necessary inquiry as to the missing records and fix responsibility on erring officers for the missing documents and other reliefs including penalty, disciplinary action, and compensation to be paid to the Complainant under Section 19(8) (b).
4. During the hearing, the Complainant is present in person. The Respondent PIO Dipti Mandrekar is also present in person. The Respondent PIO submits that she has been recently appointed and as per records the information was furnished to the Appellant well within the stipulated time. There were three letters namely letter Nos. VPSS/2010-11/1319 dated 03/03/2011, VPSS/2011-12/1499 dated 13/04/2011 and VPSS 2011/12/79 dated 23/05/2011 sent to the Complainant within specified time and whatever information was available was furnished. However certain information was not available as the files were missing.
5. The Complainant submits that she is not interested in receiving the information as the case pertains to the year 2011 however she questions as to how files can go missing from the Panchayat office and seeks strong deterrence. The Complainant also insisted that B.D.O. should hold an inquiry to ascertain how the file went missing with reference to Construction license of Shri. Maggie Carvalho and fix the responsibility.
6. The commission on scrutiny of the file finds that the FAA has not conducted a proper hearing nor has passed a reasonable order. A mere four line order on roznama proceeding sheet dropping the matter on the ground that information is furnished is certainly uncalled for and not acceptable.
7. It was the duty of the FAA being the superior officer to ascertain the facts as to how an important file can go missing and a mere claim of file missing or not traceable has no legality and it amounts to breach of the Public Records Act 1933.

8. The Central Information has held in Shri Om Prakash V/S Land and building Department, GNCTD 2013 (File No. CVIC /DS/QA/2013/OO/1788-SA) as follows :

The commission is of the view that prima facie, the public Authority cannot deny the right of the complainant to receive information and the defence of the missing file cannot be accepted even under the RTI Act.

The Commission also feels that lodging of an FIR is not the remedy in such cases. One cannot expect the police to come to the office and trace the missing file according to law the Police does not have any responsibility to trace the missing files, as the police come into the picture only when there is a complaint of theft of files. It therefore cannot be said that the police should come to the office and search for the files or things misplaced by negligence or deliberate action or by mistake etc. It is the duty of the PIO to make necessary efforts to trace the file and inform the same to the complainant in the form of an affidavit.

9. The Commission in view of the above accordingly remands the matter back to the FAA –BDO Bardez, to conduct an enquiry to ascertain the reason for the missing file and fix responsibility. The said enquiry should be completed within 60 days of the first date of hearing of the parties concerned. A compliance report to be filed before this commission after the completion of the enquiry.
10. The Complainant is hereby directed to appear before the FAA-BDO within 30 days of the date of this order with a copy of the first appeal memo dated 27-05-2011 along with all annexures / exhibits attached to the said Appeal.

With these directions the Complaint case is closed. All proceedings in the complaint case also stand accordingly 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