

GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza State Information Commissioner.

Complaint No. 152/SCIC/2011

Shri Domic D'Souza,
R/o H.No.315/4, Tropa Vaddo,
Sodiem, Siolim – 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



ORDER

1. Brief facts of the case are that the Complainant had filed an application dated 23/11/2010 seeking certain information regarding permissions/clearances on H.No.353/5A and 353/5B in the property bearing Survey No. 271/1 of V.P. Sodiem, Siolim. The PIO vide reply dated 21/12/2010, had furnished some information. The complainant however filed one more application dated 29/12/2010 which was further replied by the PIO vide letter dated 27/01/2011.
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 preferred a First Appeal on 14/02/2011 and the FAA vide his order 23/05/2011 directed the Respondent PIO to file an F.I.R. and hand over the complete information to the Complainant within 15 days.
3. It is further the case of the Complainant that no F.I.R. was registered and that the police have registered a mere missing article report bearing No. 1009/2011 dated 14/04/2011 and as such culprits responsible for the missing file have escaped penal action. The Complainant therefore being aggrieved filed a complaint before this Commission on 17/11/2011.

4. The Complainant has prayed 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 filing of affidavit and other reliefs including penalty, disciplinary action, and compensation to be paid to the Complainant under Section 19(8) (b).
5. During the hearing, the Complainant is represented by his wife Smt. Joan Mascarenhas E D'Souza whose power of attorney is on record. The Respondent PIO Dipti Mandrekar, Secretary V.P. Sodiem, Siolim is present in person.
6. The Complainant submits that she is not interested in receiving the information however she insists that the Panchayat should file a missing police complaint and questions as to how files can go missing and as such seeks strong deterrence. Complainant also insisted that PIO should file a sworn affidavit in this connection.
7. The Respondent PIO in her submissions states that she has been recently appointed and that as per records replies were given vide following letters: VPSS /2010-11/973 dated 21/12/2011, VPSS /2010-11/1098 dated 27/01/2011, VPSS /2010-11/252 dated 18/07/2011 to the Complainant within specified time and whatever information was available was furnished. However certain information was not available as the files were missing.
8. The Respondent PIO denies the claim of the Complainant regarding failure to provide complete information. The Respondent PIO further states that as far as providing information is concerned, the said information is not available and that a police complaint was filed at the Mapusa Police Station and that nothing survives in the Complaint. The Respondent PIO undertakes to furnish a written declaration confirming the above facts.
9. 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 Complainant. The PIO 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 Complainant

10 The PIO is only called upon to supply information as per the 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. Further, the Complainant has stated that she is not interested in receiving the information.

11 No doubt the claim of file missing or not traceable is a serious issue and needs to be dealt with firmly, however in view that the FAA had directed the Respondent PIO to file an F.I.R. and hand over the complete information to the Complainant within 15 days itself shows that the Public Authority was sincere in probing the case of the missing file and as such the commission finds that no intervention is required and upholds the order of the FAA.

12 Further in view that the Complainant is not interested in receiving information now as the matter pertains to the year 2011 and in view that the Complainant is satisfied to close the complaint case if the Respondent PIO files an affidavit/ written declaration and to which the Respondent PIO has no objection, nothing more survives in the complaint which is closed.

13 The Respondent PIO is directed to file the written declaration confirming all facts within 20 days of the date of this order. With these directions the complaint case is accordingly 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