

GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza State Information Commissioner.

Complaint No. 161/SIC/2011 | 287

Shri C. Shivadasan Nair,
Chicolna, Bogmalo,
Mormugao – Goa.

..... Complainant

v/s

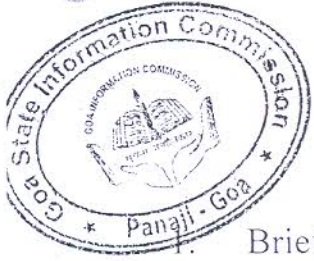
1) PIO/The Health Officer,
Urban Health Centre,
Vasco-da-Gama – Goa.
2) V.P. Secretary,
Village Panchayat Chicolna – Bogmalo,
Bogmalo – Goa.

..... Respondents/Opponents

Relevant emerging dates:

Date of Hearing : 21-03-2016

Date of Decision : 21-03-2016



ORDER

Brief facts of the Case are that the Complainant Shri C. Shivadasan Nair had filed a complaint before the Commission in the year 8/11/2011 praying to initiate an enquiry against Respondent No. 1 PIO, Health Officer, Urban Health Centre Vasco da Gama and to impose Penalty @ ₹ 250/-per day till information is furnished till date.

2. It is the case of the complainant that the Respondent has given him false and misleading information vide letter No. UHCV/RTI/11-12/899 dtd. 4/10/2011 in response to the Complainant's request to provide information as per his application dated 15/9/2011.
3. This Commission vide its Order dtd. 25/1/2012 had allowed the Complaint while at the same time asking the Complainant to prove that the information given to him is false, misleading, incorrect etc. The Commission in para 5 of its Order states as follows: " I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not. It is seen that the first application under RTI was filed on 15/9/2011.

By reply dated 04/10/2011 the Opponent No.1 furnished the information. It is seen that Complainant on 17/10/2011 sought certain information from the Opponent No.2. By reply dated 04/11/2011. Opponent No.2 informed the Complainant that their office i.e. Village Panchayat is not in receipt of letter dated 09/03/2010 from Health Officer, Vasco. The main grievance of the Complainant is that the Opponent No. 1 has furnished incorrect and misleading information”.

4. During the hearing the Complainant is absent despite advance notice sent to him by Registered Post. The then PIO along with the current PIO are both present and submitted that all information was furnished which was true and correct and that a detailed reply No. UHCV/Reply/SIC/11-12/1739 dtd. 26/03/2012 was given and further submitted that nothing survives in the complaint which should be closed.
5. The Commission is of the view that this is an old matter of the year 2011-2012, therefore asking the complainant to prove his case in the year 2016 after a lapse of four years and conducting an enquiry to ascertain whether the information furnished by the PIO to the Complainant is wrong or right is not only a long drawn time consuming process that may take years for the enquiry to conclude but will also harass the complainant with delays and unnecessary expenditure, besides not serving any useful purpose and will be an exercise in futility.
6. No doubt while inquiring into a complaint under Section 18, the commission has the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (*Judgment of the Supreme Court in the case Chief Information Commr. and Another State of Manipur supra ..para 29*). Further section 18 (2) states that ‘Where the State Information Commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.’
7. The Commission while conducting an enquiry will have to follow the prescribed procedure under the Indian Evidence Act including: summoning



and enforcing the attendance of persons and compelling them to give oral or written evidence on oath and to produce documents or things; requiring the discovery and inspection of documents; receiving evidence on affidavit; requisitioning any public record or copies thereof from any court or office; issuing summons for examination of witnesses or documents; and any other matter which may be prescribed.

8. 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 Appellant/ Complainant. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.
9. 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 Appellant/ Complainant. The PIO is only called upon to supply information accurately in accordance with record available without concealing 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.
10. The very fact that the Commission in its Order 25/1/2012 has held that information was given it is sufficient to prove the bonafide that the PIO has acted reasonably and diligently and that has furnished information given was as available and as it existed as per the records available and which is the mandate of the RTI Act.
11. Therefore I am of the view that after arriving at such conclusion the Commission should have closed the complaint instead of ordering a one sided enquiry by making the Complainant to prove his case and which decision in my considered opinion seems erroneous and suffers from legal infirmity.




The Commission therefore finds it prudent to accordingly order the enquiry proceedings to be closed. With these observations the Complaint case is closed.

12. There is no need for the complainant to prove his case before this commission however the complainant if so advised can seek other legal remedies to agitate his grievance that the information furnished was incorrect and misleading before the appropriate forum in accordance with law.

15. The Commission however makes it clear that this Order will not come in the way of the Commission inquiring into a complaint filed under section 18 if the findings so deserve an enquiry.

Pronounced in open court before the parties who are present. Notify the parties concerned. Authenticated copies of the order be given free of cost.




Under Secretary
Goa State Information Commission
Panaji - Goa.

Sd/-
(Juino De Souza)
State Information Commissioner