

GOA STATE INFORMATION COMMISSION

Kamat Towers, Seventh Floor, Patto, Panaji, Goa

Complaint no. 391/SIC/2010

Shri H.M.Kulkarni,
Flat No. MG-1,
Amrai Nagar,
Curti Ponda Goa.

-----Complainant

V/S

1. Shri R.M.Ashrit, PIO,
O/o The Ex.Engineer,
Electricity Department,
Div.III, Curti Ponda Goa..

-----Opponent

CORAM : **Shri. Prashant S. P. Tendolkar** State Chief Information Commissioner
Smt. Pratima K. Vernekar, State Information Commissioner,

Appeal filed on: 18/03/2010

Decided on: 05/7/2016

ORDER

1.Facts

- a) The complainant by this complaint has prayed for disciplinary proceedings against the opponent on the ground that the, opponent has PIO has furnished him with wrong information to his application, dated 22/2/2010. This complaint is replied by the opponent and after hearing the arguments this commission by its order dated 17/8/2010 has held that the entire information has been furnished. By the said order this commission as directed the complaint to prove that the information as furnished is false, incorrect and incomplete. Hence this proceedings.
- b) Pursuant to the said order the parties filed further submissions as also several application. The parties have also filed on records several papers pertaining to the inquiry of the complainant.

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c) The Respondent, subsequent to the order passed by to this commission on 17/8/2010 has also filed additional reply . By said reply the Respondent PIO has challenged the maintainability of the complaint as also the constitution of this commission. We are unable to consider his objection now as our predecessor had already dealt with the same and has passed the said order dated 17/8/2010. In this situation the limited point is to be decided is " whether the complainant has proved that the information furnished to him is false, incorrect and incomplete.

2. Findings.

a) By his original application dated 22/2/2010 , the complainant has sought for the queries at 4(a) to (d). The said queries are replied by the PIO by reply, dated 5/3/2010, (appears to have been wrongly typed as 5/2/2010) The complainant has not challenged the same before the First appellate authority but has filed a complaint under section 18 before this commission. At paras (1) to (8) of the complaint various statements are made and at para 9 of the complaint it is the grievance of the complainant that the remarks on the attendance certificate for the month of August 2009, dated 20/8/2009 and another certificate for the month of January 2010, which is dated 28/1/2010 shows that full months net salary has been withheld that is Rs. 26619/- and Rs.32977/- respectively. At the same para 9 the complainant has stated to confirm the same the assistant engineer has written a letter to Executive engineer a letter, dated 10/3/2010 to release the salary for January 2010.

Thus according to the complainant though the said attendance certificates dated 20/8/2009 and 28/1/2010 which are attached to the reply of the PIO contains and endorsement that the salary of entire month is withheld the endorsement contained on the said certificate shows withholding the entire salary of the month contrary

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the leave for a few day of the month. This Information is according to the complainant a false information .

- b) Section 2(f) of the Right to information Act defines information means any material in any form , including records, documents, memos , emails, opinions, advices , press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data materials held in any form which can be accessed by a public authority.

Thus information under the Act would be such as his held by the public authority and which can be accessed by the Public authorities. While clarifying the nature of information that can be obtained under the Act, the Hon'ble Supreme Court in *Civil Appeal No. 6454 of 2011(Central Board of Secondary Education and another v/s Aditya Bandopadhyaya and others* at para (35) has held that the Act provides excess to all information that is available and existing. Apex court has further held that the Act does not caste on obligation upon the public Authority to collect, collate Such non available information and then furnish it to the applicant. The court has also held that the public authority is not required to furnish information which require drawing of inferences or making of assumptions .

- c) From the above it is clear that the information which is required to be furnished, is, as it exists with the public authority irrespective of the inferences that arises under such information. Hence when the information is held in writing, as in this case, such writing in the form it exist would constitute the information. In this case the two certificates of attendance are furnished to the complainant as it exists in the records of the said authority. The contents of said certificates may be wrong but it exist. It is not the case of the complainant that the said attendance certificate is in a form other than what is supplied to him.

- d) The contention of the complainant for the purpose of holding that it

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is false and misleading information is that though he was on leave for few days , as per the endorsement the salary of the entire month is withheld. Such a grievance of the complaint may be true and genuine but has to be redressed by the concerned forum . Even if the information contained is wrong the same is to be supplied in the form as is held . In this case having furnished the information as it is maintained and recorded with the public authority has been furnished as it is, we find that the information has been duly furnished as held by the Department. This commission has not been conferred any powers under the Act to issued directions to rectify any information or to draw any inference out of such information . Besides this contentions , the complainant has no other ground seeking disciplinary proceedings as penalty.

e) Thus having held the information as was held by the public authority has been furnished to the complainant , we are unable to accept his contention that the Respondent No. 1 PIO has furnished him false and incomplete information. In the circumstances we do not find any substance in the complaint warranting penalty as prayed for and consequently we proceed to disposed the complaint with the:

ORDER

Complaint stands dismissed. Inquiry stands dropped.

Proceedings closed.

Notify the parties.

Pronounce in the open proceedings

Sd/-
(Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-
(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa

