

BEFORE THE GOA STATE INFORMATION COMMISSION
Seventh Floor, Kamat Towers, Patto, Panaji, Goa.
CORAM: Shri. Prashant S. P. Tendolkar,
State Chief Information Commissioner
Smt. Pratima K. Vernekar,
State Information Commissioner

Complaint No. 02/SIC/2016

Shri Jawaharlal T. Shetye,
C/o. Mapusa Jana Jagruti Samiti,
H. NO.35, Ward No.11,
Khorlim, Mapusa-Goa.

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Complainant

V/s

1. Public Information Officer,
The Chief Officer (Shri Raju Gawas),
Mapusa Municipal Council,
Mapusa –Goa.
2. The Public Information Officer,
The Main Engineer Grade I (Hussein Shah Muzawar),
Mapusa Municipal Council,
Mapusa –Goa.

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Opponents

Filed 12/01/2016

Disposed on: 29/09/2016

O R D E R

- 1) By this complaint the complainant has prayed this Commission to conduct inquiry into the behaviour of Opponent No.1, as also to impress upon the opponent No.2 to furnish the desired information pertaining to 11 RTI applications referred in the complaints as also for punish the opponents by invoking section 20(1) and 20(2) of the RTI.
- 2) The brief facts, as pleaded by the complainant herein, are that he had filed several applications under section 6(1) of the RTI Act seeking information from PIO i.e. opponent No.2 herein. The PIO having failed to respond to the said applications within time the complainant filed appeals to the opponent No. 1 under section 19(1) of the Act.

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- 3) It is the grievance of the complainant that the opponent No.1 did not dispose the said appeals within 45 days as contemplated under the Act and hence the complainant has filed this composite complaint against the opponents with the prayers as above.
- 4) Notices were issued to the parties pursuant to which they appeared. The opponents did not file any reply to the complaint. On 25/04/2016 the complainant filed a writing titled as "reply of the Complainant."
- 5) When the matter was taken up for arguments the complainant submitted that his said reply be treated as his arguments. The opponents inspite of opportunity did not advance any arguments.
- 6) We have perused the records. The present complaint is filed by the complainant putting up grievance against the opponents regarding their conduct in several proceedings. The main ground herein by the complainant is that the opponent No. 1 failed to dispose off the appeals within stipulated time.

On further perusal of the file it is seen that the application filed by the complainant under section 6(1) were replied by the PIO by his several replies. Apparently, being aggrieved by the said reply, the complainant has filed first appeals to opponent No.1 which he failed to disposed within period of 45 days as provided under section 19(6) of the Act. It is with this grievance that complainant has approached under section 18 of the Act.

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7) Section 18 of the RTI Act reads:-

"18. Powers and functions of Information Commission:- (1) *Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person:-*

- (a) *Who has been unable to submit a request to a Central public information Officer, or State Public Information Officer as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Commission or the State Information Commission, as the case may be;*
- (b) *Who has been refused access to any information requested under this act;*
- (c) *Who has not been given a response to a request for information or access to information within the time limits specified under this Act;*
- (d) *Who has been required to pay an amount of fee which he or she considers unreasonable;*
- (e) *Who believes that he or she has been given incomplete, misleading or false information under this Act; and*
- (f) *In respect of any other matter relating to requesting or obtaining access to records under this Act.*

8) Thus the act empowers the Commission to inquire into complaints which involves only the cases as contained at

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clauses (a) to (f) above. It is nowhere the case of the complainant that he was unable to submit a request OR that PIO has refused to accept OR that has refused access OR that he has not been given a response to a request for information OR that he was required to pay an amount of fee which he considers unreasonable; OR that he was given incomplete, misleading or false information OR that it is a matter relating to requesting or obtaining access to records.

Thus according to us the complainant has not made out any ingredients of section 18(1) (a) to (f) of the act. Hence to our mind the present appeal is beyond the scope of this Commission.

9) A further perusal of the above provision, no where it provides any relief of punishment against the First Appellate Authority (FAA) . Said section provide only for penalty as provided under section 20(1) 20(2), to be imposed against the PIO's not against the appellate authorities.

10) In the present complaint the complainant wants the commission to inquire into the behavior of the appellate authority. This commission is no where granted any powers under the Act to undertake such query. As held above, Section 20(1) and 20(2) provides only for penalty against PIO. In the present case the complainant has not come against the PIO in respect of his individual application and has taken up the issued involved in his bunch of application to be decided with a common order. Each application has a different cause of action and is required to be dealt with independently by respective appeals/complaint.

- 11) In the aforesaid circumstances, as the complainant having failed to make out any case to grant the relief as prayed for him the present complaint cannot be maintained and hence the same stands dismissed.

Proceeding closed.

Notify the parties.

Pronounced in the open proceedings.

Sd/-

(Mr. Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji –Goa

Sd/-

(Ms. Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji –Goa