

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

CORAM :

Shri Prashant S.P. Tendolkar,
State Chief Information Commissioner,

Complaint no.12/SCIC/2016

Shri Sudhakar M. Pal,
H.no.361, Madhlawada,
Bordem, Bicholim, Goa
403504

V/S Complainant

Public Information Officer,
Office of the Asst. Engineer,
PWD, SD II PHE (N)
Div XXIV, Bicholim-Goa.
Pin code 403 504.

----- Respondent

Filed on: 29/1/2016

AND

Complaint no.32/SCIC/2016

Shri Sudhakar M. Pal,
H.no.361, Madhlawada,
Bordem, Bicholim, Goa
403504

V/S Complainant

Public Information Officer,
Office of the Asst. Engineer,
PWD, SD II PHE (N)
Div XXIV, Bicholim-Goa.
Pin code 403 504.

----- Respondent

Filed on: 29/1/2016

Both Disposed on: 7/3/2016

ORDER

1. As both the above complaints are involving common parties and the same subject matter and as they involve a common point the above complaints are disposed by this common order.

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2. On going through the records, it is found that complainant herein had not filed the first appeal against the rejection/deemed rejection of the request by the PIO as is required u/s 19(1) of The Right to Information Act 2005.(ACT) Complainant has approached this commission u/s18 of the act seeking information as also penalty.
3. Earlier this commission has found that there are several such files pertaining to complaints pending since 2008. It was further observed that during the individual hearings of such complaints, most of the complainants have remained absent continuously. Also PIOs have challenged the maintainability of such complaints before the commission as no first appeals were filed. These objections were raised in the backdrop of the judgment of the Hon'ble Supreme Court of India dated 12/12/2011 in Civil Appeal Nos. 10787-10788 of 2011(**Chief Information Commissioner and another v/s State of Manipur and another**).
4. As a larger intricate legal issue of maintainability of such complaints without first appeal, was involved in several matters, this commission felt it necessary to constitute full bench of the commission to hear such issue. Accordingly a full bench of the commission was constituted. All the complaints were heard in a common hearing on 20/4/2016. By order dated 27/5/2016 passed by the full bench of this commission, it is held that the complaints u/s 18 of the RTI Act cannot be entertained unless the complainant exhausts his remedy of first appeal u/s 19(1) of the act seeking enforcement of his fundamental claim of seeking information.
5. The present complaints are also involving the same issue and I hold that the present complaint filed against rejection of the application for

information is not maintainable. Considering that the present complaints are being proceeded before this commission under the bonafide belief that such complaints are maintainable, I find that the interest of the complainant is required to be protected.

6. The present complaint therefore stands closed. Complainant is granted liberty to file first appeal under section 19(1) of the Act in respect of the rejection/refusal of his request for information vide his applications filed u/s 6(1) of the act, within thirty days from the date of receipt of this order. If such an appeal is filed, the first appellate authority shall decide the same on merits in accordance with law, without insisting on the period of Limitation.

The rights of the complainant herein to file complaint in case the complainant is aggrieved by the order of the first appellate authority in such appeals, are kept open .

This order be communicated to the parties along with copy thereof, free of cost. Proceedings stands closed.

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