

GOA STATE INFORMATION COMMISSION
'Kamat Towers' Seventh Floor, Patto, Panaji – Goa

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

Complaint No.21/SCIC/2017

Shri Joao C. Pereira,
H. No. 40, Acsona, Utorda,
Majorda, Salcete –Goa.

..... Complainant

V/s

Shri Uday Prabhudesai,
The Public Information Officer,
Dy. Collector & SDO,
Margao, Salcete-Goa.

..... Opponent

Filed on : 03/08/2017

Disposed on:06/12/2017

1) FACTS:

a) The complainant herein by his application, dated 26/05/2017 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, Public Information Officer(PIO) under several points therein.

b) The said application was replied on 22/06/2017 directing the complainant to pay the fees of information. According to complainant the fees as demanded was paid by complainant on 28/06/2017 inspite of which, the information was furnished to him only on 11/07/2017. According to complainant the information as sought was not furnished within time as contemplated u/s 7 (1) of the act and hence the complainant filed this complaint u/s 18 of the Act.

...2/-

c) Notices were issued to the parties, pursuant to which they appeared. The PIO on 23/10/2017 filed a reply to the Complaint. Arguments were heard.

2) FINDINGS:

a) I have perused the records and considered the grievance of the complainant. The admitted facts herein is that the information as is sought has been furnished to the complainant on 11/07/2017. The complainant has no grievance against the quantum of fees charged. The only grievance that the complainant has is that inspite of depositing the fees in time the information was furnished beyond the period stipulated u/s 7(1) of the act and hence complainant wants this Commission to invoke the provision of section 7(6) of the act and order refund of the fees deposited.

b) The Complainant in his complaint memo has also avered some incidents, which according to him has occurred in the Course of his visit to the PIO for collecting information. If at all such incidents have occurred I decry the same. However such incident cannot be investigated under the act and the head of concerned office has to take call on the same, if complained of by aggrieved party.

c) The PIO, on 23/10/2017 has filed his reply to the notice. According to him the information was never refused and the response to application u/s 6(1) is given within time and the reasonable fees are charged and information is provided.

According to PIO, on receipt of complainant's application, he scrutinized all the office records and sorted out the relevant

information, which consumed few days as information sought was bulky and thereafter complainant was directed to deposit the fees, vide letter, dated 22/06/2017.

It is further according to PIO that he has no sufficient logistical support hence task of taking copies was given to some other agency, which took about eight days and that the information was thus furnished on 11/07/2017.

d) On going through the records, it is undisputed fact that the information sought is voluminous and running in about 4715 pages. The act provides thirty days time for responding u/s 7(1) of the act which reads:

*“ 7. Disposal of request.____(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, **either provide the information on payment of such fee as may be prescribed** or reject the request for any of the reasons specified in section 8 and 9:*

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipts of the request.

(2)-----

(3) Where a decision is taken to provided the information on payment of any further fee representing the cost of providing

the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send intimation to the person making the request, giving_____

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;”

Thus on conjoint reading of the said provisions the response of PIO u/s 7, involves two stages. Firstly PIO should take a decision within 30 days either to provide the information on payment of prescribed fees or not to provide. In the second phase the PIO has to dispense the information after deposit of fees. Thus an outer limit of thirty days is provided to decide and intimate the decision. The seeker is not saddled with anytime limit for deposit, but such period is added for final disposal of application u/s 6(1) of the act.

e) In the present case the PIO has communicated his decision to complainant on 22/06/2017, within statutory period of thirty days. Though the complainant has a grievance that the PIO has taken twenty eight days only to communicate the decision, it is the period granted under the act to decide whether information can be furnished or not.

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It is not in dispute that the complainant on receipt of intimation has deposited the fees on 28/06/2017. Thus the time for dispensation of information stood extended by said seven days.

In view of the extension of time, the PIO was required to furnish the information on 04/07/2017, being the 38th day from 26/5/2017. But the information is furnished on 11/07/2017 being the 45th day, causing a delay of seven days. The complainant claims the information free of cost on account of this delay of seven days.

f) From the records it is noted that the information comprises of 4715 pages which is quite substantial. Though the law mandates the dissemination of information in thirty days, it is applicable in the general circumstances. The same scale cannot be applied for voluminous information. One can take judicial note of the fact that more the information more time would be involved in procuring its copies. In the present case in view of volume of information it has consumed more seven days, which I find is not disproportionate or unreasonable. Though section 7(6) contemplates for furnishing of free information after 30 days the same cannot be applied universally to all cases.

g) In the case of ***Dalbir singh V/S Chief Information Commissioner Haryana & others (WPNo.18694 of 2011)*** the Hon'ble High Court of Punjab & Haryana while holding that the quantum of information cannot be a ground for refusal of information has observed:

“There appears to be no justification to deny the information on this ground. Suffice it to mention that if

the records are bulky or compilation of the information is likely to take some time, the Information Officer might be well within his right to seek extension of time in supply the said information, expenses for which are obviously to be borne by the petitioner.”

In the background of above facts and circumstances I am unable to consider the plea of complainant that he is entitled to have the information free of cost.

h) In the course of arguments it was the contention of appellant that in case the information could not have been furnished in time due to volume, the PIO ought to have informed the complainant accordingly and called him on a specific date. I find some force in such grievance. The act envisages dispensation of information to the citizen with minimum cost, time and inconvenience. In case the PIO was unable to furnish information immediately against payment due to volume of information, then it was required to inform the complainant accordingly and call the complainant on a date specified, after completing the copying work. Such a gesture would have reduced the inconvenience to the complainant.

i) In the above circumstances though inconvenience is found to have occurred to complainant, I find that the PIO has shown sufficient cause as to why penalty in term of section 20(1) and/or 20(2) should not be imposed and hence the same is required to be withdrawn. I therefore dispose the present complaint with the following:

ORDER

The show cause notice, dated 11/09/2017 issued by this Commission is withdrawn.

...7/-

PIO is hereby directed to be diligent to furnish the information immediately against payment of fees, as far as possible. In case the information cannot be furnished as above, then to intimate clearly the day/date after deposit of fees, on which the information would be ready.

Order to be communicated.

Proceeding closed.

Pronounced in open proceeding.

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