

GOA STATE INFORMATION COMMISSION

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

Shri Prashant S. P. Tendolkar
Chief Information Commissioner

Miscellaneous NO.01/2017

Shri Sushant P. Nagvekar,
House No.C-312,
Fondvem-Ribandar,
Goa -403006

V/s

A. S Mahatme,
Asst. Registrar of Co-op Societies & PIO,
Central Zone, Near Municipal Market,
Panaji –Goa.

Miscellaneous NO.02/2017

Shri Sushant P. Nagvekar,
House No.C-312,
Fondvem-Ribandar,
Goa -403006

V/s

Under Secretary(Law-Legal Affairs) &
Public Information Officer,
Secretariat, Porvorim-Goa.

Miscellaneous NO.03/2017

Shri Sushant P. Nagvekar,
House No.C-312,
Fondvem-Ribandar,
Goa -403006

V/s

Trupti Manerkar,
Under Secretary (Law –Estt.) &
PIO, Secretariat, Porvorim-Goa.

Miscellaneous NO.04/2017

Shri Sushant P. Nagvekar,
House No.C-312,
Fondvem-Ribandar,
Goa -403006

V/s

Shri Satyawan Bhivshet,
Asst. Commissioner of Excise –I &
PIO, O/o the Commissioner of Excise,
Panaji –Goa.

Dated:06/10/2017

O R D E R

1) This order shall decide the objection raised by the complainant to the office order/communication of the registry of this Commission, dated 24/07/2017. As the point involved in all the above applications is common the same is disposed by this common order.

2) The complainant has filed the above proceedings as a complaints u/s 18 of the Right to Information Act 2005 (Act). The registry of this Commission while examining the proceedings, noticed that the above proceedings are filed as complaints u/s 18 of the act without filing the first appeal u/s 19(1) of the act. In view of the same the registrar of this Commission by his communication, dated 24/7/2017, informed the complainant that the present proceedings are not maintainable as complaints.

3) The complainant objected the said objection of the registrar and hence he was notified to be heard. Accordingly the complainant was heard.

4) It is the first contention of the complainant that the under Secretary cum Registrar has no powers to return the proceedings without referring the same to the Commissioner.

5) In his submissions the complainant has also raised several objections to the orders passed by this Commission on such complaints. The complainant has also raised several exceptions to the judgment of the Hon'ble Supreme Court in the case of

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Chief Information Commissioner V/s state of Manipur. He has also submitted that he does not agree with the findings of Supreme Court.

6) Before I deal with the merits of the said objection of complainant to the registrar's action of returning the complaint, it would be appropriate to consider the circumstances under which the said communication was issued.

7) In the course of hearing of several complaints pending before this Commission, it was pointed out that the complaints which were filed u/s 18 of the act, without filing the first appeal u/s 19(1) were not maintainable. As the proceedings were numerous, the bunch of complaints with such infirmity were heard in a common hearing by the full bench of this commission. By orders, dated 27/05/2016, the full bench of this Commission decided the issue in all such matters holding that such complaints which are filed without filing first appeals as not maintainable.

8) Considering the said finding of this Commission, the registry of this commission was appraised of the said order which was a judicial order vis a vis respective complaint and the same had implications also as an administrative order for entertaining such complaints by this commission at the time of scrutiny of individual proceeding by the registry.

9) It is to be noted here that the full bench of this Commission in the said orders, dated 27/05/2016 has held that the complaints u/s 18 are not maintainable if the complainant has not exhausted the remedy of first appeal u/s 19(1) of the act. While passing this

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order the bench has considered the rational laid by Hon'ble Supreme Court in the case of *State of Manipur* as also in case of *Reserve Bank of India V/s Rui Fereira*, decided by Hon'ble High Court of Bombay. The bench has also considered the rational laid in other cases also by the High Court. The said issue is thus finally decided at the level of the Commission by the full bench based on the rulings of Hon'ble Supreme Court and High Court. The commission therefore has become *functus officio* to decide the said issue.

10) It is to be noted that the Under Secretary cum Registrar is the official designated for considering the registration of the proceedings, after examination of proceedings, pointing out deficiencies with respect to the documents, fees, jurisdiction etc and on such scrutiny the proceedings are registered for being heard. Thus as the order of the full bench of this Commission has also administrative implications, on the jurisdiction of the Commission on complaints, it is within the powers of the registrar to raise such objections. Hence I find no irregularity on the part of Registrar to point out such deficiency of the party.

In the above circumstances I find no grounds to interfere with the order/communication dated 24/07/2017 of the Registrar. The objection as raised by the complainant to said communication/letter, dated 24/7/2017 is dismissed.

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

