

GOA STATE INFORMATION COMMISSION

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

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

Complaint No. 39/SCIC/2016

Shri Jawaharlal T. Shetye,
H. No.35, Ward No.11,
Khorlim Mapusa –Goa.

..... Complainant

V/s

- 1) Shri Hussein Shah Muzawar,
The Main Engineer Grade 1,
The Public Information Officer,
Mapusa Municipal Council,
Mapusa –Goa.
- 2) The Chief Officer/The First Appellate Authority,
Mapusa Municipal Council,
Panaji-Goa. Respondents.

Filed on: 02/08/2016

Decided on: 26/07/2017

O R D E R

1) The Complainant has filed this Complaint purportedly u/s 18(1) of the Right to Information Act 2005 (Act). The contention of Complainant is that by his application, dated 13/11/2015 he sought certain information from PIO. The said application was not responded by PIO and hence he filed first appeal to First Appellate Authority (FAA) on 28/01/2016 but the FAA has neither heard the appeal nor disposed off the same.

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2) As per the pleading, the complainant by his another application, dated 07/06/2016 sought information from respondent PIO to furnish certified copies of the noting sheets, roznama sheets etc in first appeal No.40/2016. But the same was not furnished and hence complainant has filed the present complaint u/s 18(1) of the Act.

3) Notices were issued to PIO to show cause as to why action u/s 20(1) and/or 20(2) should not be initiated. The PIO filed reply interalia submitting that the complainant by another earlier application, dated 15/09/2014 has sought the same information and the information amounting to 66 pages were received by Complainant. According to him the contents of said application dated 15/09/2014 and the one dated 13/11/2015 are same.

According to PIO the application, dated 07/06/2016 was inwards on 08/06/2016 and is replied by his reply dated 08/08/2016. According to PIO the complainant has joined two different applications filed under the RTI Act and hence present complaint is not maintainable.

4) On 12/06/2017 the complainant filed a reply. In said reply the complainant interalia has prayed for dropping of the above proceedings giving liberty to file second appeal u/s 19(3) and/or the complaint u/s 18 of the Right to Information Act 2005. The complainant has relied upon orders passed by the information Commissioner of this Commission has prayed for such relief.

5) I have perused the records and considered the pleadings. Prayer for dropping the proceedings is not objected to by the PIO, but the objection is to grant liberty to file fresh

complaint and/or appeal. Hence I feel that the merits of the complaint is also required to be considered.

6) The complainant in the present complaint has a grievance against the PIO for not furnishing the information to his application dated 13/11/2015. Against said action, complainant exhausted his remedy of first appeal. According to him the first appeal was not heard.

Thereafter the complainant shifts to a application, dated 07/06/2016 filed by him to seek information pertaining to first appeal NO.40/2016. However the complainant has not shown any relation to the said application to his application dated 13/11/2015. If the first appeal against PIO's non response to said application dated 13/11/2015 was not disposed the complainant could have approached in second appeal or a complaint as per law. The complainant has filed another application seeking information pertaining to first appeal. This is a fresh application u/s 6(1) of the Act. Thus the complainant has clubbed two separate application for the purpose of this Complaint u/s 18 fo the Act.

7) Each application for information u/s 6(1) has distinct and separate cause of action. The parties may be also different, though the authority is same, the designated PIOs may be different. Clubbing of proceedings may result in miscarriage of Justice. The present complaint has resulted in mis joinder of causes of action as also mis-joinder of parties.

8) The Complainant has prayed for dropping of proceedings with leave to file first appeal or a complaint. Such

proceedings are governed by the provisions of law. Granting of blanket leave may deprive the opposite party to forego valuable defence which might have arisen in its favour. Hence such a leave cannot be granted. Proceedings are required to be decided on case to case bases.

9) Considering the above circumstances, the present complaint which has resulted in misjoinder of causes of action and misjoinder of parties, is not maintainable.

Being so no leave can be granted to complainant to file any appeal or complaint unless such proceedings are maintainable.

In view of the above, the notice, dated 20/01/2017, issued by this Commission stands withdrawn.

Proceedings closed.

Notify the parties.

Pronounced in open proceedings.

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