

GOA STATE INFORMATION COMMISSION

Kamat Towers, seventh Floor, Patto, Panaji, Goa

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

Complaint No. 17/2018/CIC

Mr. Nitin Y. Patekar,
Oshalbag, Dhargal,
P.O. Colvale-Goa.
V/s

...Complainant

- 1) The Public Information Officer,
O/o Village Panchayat Dhargal,
Pernem- Goa.
- 2) The First Appellate Authority,
O/o Block Development Officer,
Pernem-Goa.

...Opponent

Filed on: 28/03/2018

Decided on: 20/08/2018

O R D E R

- 1) This commission by notice dated 03/04/2018, has directed the PIO herein to show cause as to why penalty as contemplated u/s 20(1) and/or 20(2) of the Right to Information Act 2005 (Act for short) should not be initiated against him.
- 2) It is the contention of Complainant that by his application dated 22/11/2017 filed u/s 6(1) of the act he sought information from opponent no. 1 (PIO). The same was responded on 20/12/2017. The first appeal filed by complainant is not disposed and hence he filed this complaint. In this complaint he has prayed for information as also for penalty against the PIO.
- 3) The PIO filed reply to the notice on 11/06/2018. Vide his reply it is the contention of PIO that the complaint is

...2/-

not maintainable and that it is filed to harass PIO and that the application filed by complainant was vague.

By referring to sequence of events the PIO has stated as to how the information was furnished. It is the contention of PIO that the information existing in tangible form only can be furnished. The PIO has also referred, to certain circular issued by Director of Panchayat regulating the procedure for tendering etc. However said statement is redundant for this Complaint.

- 4) Perused the records. The complainant has sought herein the information which according to him is not correctly furnished by PIO. This proceedings being a complainant cannot deal with such request to issue any direction to furnish information, being beyond scope of action 18.
- 5) For the purpose of assessing malafides, if one considers the nature of information sought, at point (1) of the complainant has sought the opinion of the PIO whether certain construction is legal or not and in continuity if it is so to furnish further information.

The information which could be furnished under the act is the one which exist in tangible form. Opinion of the PIO is not information. Opinion, which is referred to in section 2(f) of the act is the opinion, which exist in any tangible form. PIO is not supposed to give his own opinion on any subject.

In this case the PIO has informed that it is legal. Such information actually should not have been furnished but this, can be held as out of "gratis" and not as a mandate.

- 6) Regarding point (2) of the application, it is seen that in the same breath the complainant has sought certain copies to

substantiate legality. Such requirements are also in the form of supporting the opinion of the PIO.

- 7) It is to be noted that to qualify structure as legal, the requirements like approvals, plans documents of title are required to be filed if not, it cannot be held as legal. This is the position with reference to the law in general. Hence to know the legality of structure, such documents sought to have been sought as information.
- 8) Considering the above situation for arriving at any conclusion the complainant could have sought the documents itself independently and not to substantiate the opinion. The application thus appears to be vague and information sought is beyond the preview of the act.
- 9) In the above circumstances this commission finds no grounds to hold malafides in dispensing informations. The complainant therefore cannot survive.
- 10) In the result complaint is dismissed. The show cause notice dated 03/04/2018, stands withdrawn. Right of Complainant to seek information based on clarification furnished by PIO herein are kept open.

Proceedings closed. Notify parties.

Pronounced in open hearing.

Sd/-

(Shri. P.S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji -Goa