

GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza: State Information Commissioner

Complaint No: 20/2018/SIC-II

Raghunath Shetkar,
H.No. C-17, 418,
Oitiyant Bastolem,
Taleigao, Tiswadi, Goa.

.....Complainant

v/s

1. The Public Information Officer,
North Goa Planning and Development
Authority,
Mala, Panaji, Goa – 403 001.

2. The First Appellate Authority,
Under Right to Information Act,
North Goa Planning and Development
Authority,
Mala, Panaji, Goa – 403 001

..... Respondents

Relevant emerging dates:

Date of Hearing : 21-08-2018

Date of Decision : 21-08-2018

ORDER

1. Brief facts of the case are that the Complainant has filed a Complaint case against the Respondent PIO registered with this Commission on 06/04/2018 arising out of the RTI application dated 27/02/2017 wherein he had sought certain information from the Respondent PIO, Office of the North Goa Planning and Development, Panaji-Goa.
2. The Complainant in paragraph 8 of the Complaint memo has stated that subsequently in the month of March 2018 one of the clients of the applicant came for a legal advice and during discussion he produce a letter dated 16.12.2015 addressed by him to the NGPDA requesting for the change of zone as per the above notification. The said letter was never replied nor any hearing was conducted by the NGPDA which are not figuring in the report and that the PIO has played the fraud and mislead the applicant deliberately in order to avoid furnishing information as the RTI.

3. The Complainant has prayed for penalty of Rs.25,000/-, for disciplinary action and other such reliefs alleging that the Respondent has deliberately furnished a false letter knowing fully that there are more application received by the NGPDA which are not figuring in the report and that the PIO has played the fraud and has mislead the applicant
4. During the hearing the Complainant is absent. The Respondent PIO is represented by Adv. Sayeli Bandodkar whose Vakalatnama is on record.
5. At the outset, Adv. Sayeli Bandodkar submits that the subject matter of the Complaint case arising out of the RTI application dated 27/02/2017 was already agitated once before this Commission by way of a Second Appeal bearing No.213/2017 and that the complainant himself was satisfied with the information furnished by the PIO and had prayed for disposal of the Second appeal on his own volition by making an endorsement on the Appeal memo based on which the said Second Appeal came to be disposed and the proceedings were ordered closed. Adv. Sayeli Bandodkar therefore submits that the Complainant cannot be permitted to agitate the same matter again by a Complaint case as being barred by provisions of *Res Judicata*.
6. Adv. Sayeli Bandodkar finally submits the present Complaint is filed without any basis with the ulterior motive only to harass the PIO with the threat of penalty and disciplinary action and that the Complaint case be dismissed and as is not maintainable.
7. The Commission on perusing the material on record and after hearing the submission of Adv. S. Bandodkar indeed finds that this matter was agitated by way of a Second Appeal No.213/2017 which was disposed by this Commission on 31/01/2018. It is pertinent to note that paragraph 8 of the said Order reads thus: "The Advocate for the Respondent PIO on the subsequent date of the hearing filed memo dated 31/01/2018 annexing the information at point No. 1. The copy of the same is furnished to the Appellant.

8. In paragraph No.9 it is stated that on verification of the said information, his application under section 6(1) has been completely answered and he is satisfied with the information furnished to him and prayed for the disposal of the present appeal. Accordingly he endorsed his say on memo of appeal.

9. The Commission accordingly finds that at the time of hearings of the Second Appeal, the Complainant had himself expressed satisfaction with the information furnished by the PIO and also out of his own volition made an endorsement on the appeal memo praying for disposal of the Second Appeal which therefore came to be closed on 31/01/2018. Since the matter has already been agitated once by way of a Second Appeal before this Commission, as such the Complainant herein is precluded by the universal principles of *Res Judicata* (already decided) from agitating the same matter again through a Complaint case under section 18 of the RTI act 2005.

Section 11 of the Code of Civil Procedure, 1908 embodies the doctrine of Res Judicata as to the points decided either of fact or of law, or of fact and law, in every subsequent suit between the same parties. It enacts that once a matter is finally decided by a competent court, no party can be permitted to reopen it in a subsequent litigation. In the absence of such a rule there will be no end to litigation and the parties would be put to constant trouble, harassment and expense.

Res Judicata is a rule of universal law pervading every well regulated system of jurisprudence and is based upon a practical necessity that there should be an end to litigation and the hardship to the individual if he is vexed twice for the same cause. Thus, this doctrine is a fundamental concept based on public policy and private interest.

The legal concept of Res Judicata arose as a method of preventing injustice to the parties of a case supposedly finished as well as to avoid unnecessary waste of resources in the court system.

10. That apart, it is also quite evident from the averments made in para 8 the Complaint memo that the Complainant seems to have filed the present Complaint case only to harass the PIO with threat of penalty and disciplinary action and that too after collecting the information to his satisfaction during the Second Appeal proceedings.
11. Filing a Complaint case against the PIO only because one of the clients of the applicant came for a legal advice and during discussion he produced a letter dated 16.12.2015 (read para 8 of Complaint memo) is totally unwarranted and uncalled for. Accordingly the statement contained in paragraph 8 of the Complaint memo is not acceptable by this Commission.

Consequently, the Complaint case is dismissed as not maintainable and also dismissed for being devoid of any merit.

All proceedings in the Complaint case are closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Copies of the Order be given free of cost.

**Sd/-
Juino De Souza
State Information Commissioner**