

# GOA STATE INFORMATION COMMISSION

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

**CORAM: Shri Juino De Souza: State Information Commissioner**

**Complaint No.31/2017**

Shri Pedrito Misquitta alias Shri John Peter  
Mesquitta,  
H.No.234-B,  
Souza Vaddo, Candolim,  
Bardez, Goa. 403 515

.....**Complainant**

**v/s**

**1.Public Information Officer**

Civil Registrar–Cum–Sub Registrar,  
Mapusa – Bardez – Goa.

..... **Respondent**

**Relevant emerging dates:**

Date of Hearing : 10-04-2018

Date of Decision : 10-04-2018

## **O R D E R**

1. Brief facts of the case are that the Complainant herein has filed a Complaint case against the PIO, Civil Registrar Cum Sub Registrar, Mapusa –Goa registered before the Commission on 04/10/2017 for furnishing false information intentionally without checking the records against order dated 02/06/2017 passed by this commission while disposing Appeal no 147/SIC/2015.
2. It is the case of the complainant that he had submitted an RTI application dated 02/10/2015 asking for all Deeds of Sale executed by one Shri Saluzinho Soares alias Shri Agapito Soares and others as VENDORS pertaining to properties surveyed under 80/3, 80/32 and 82/1 situated at Calangute, Aradi Village of Bardez Taluka executed between 01/05/2001 till disposal of the RTI application.
3. The Complainant has stated in the Complaint memo that the PIO on 19/01/2015 had replied to him that 16 Deeds of Sale from 16/06/2009 to 01/05/2015 are found registered in the computer system and to collect them after paying the necessary fees. The Complainant has filed the present complaint praying for invoking penal sections for furnishing false and misleading information thus violating the order passed by the Commission on 02/06/2017. ..2

4. This matter has come up before the commission on two previous occasions and is taken up for final disposal. During the hearing the Complainant is present in person. The Respondent PIO is absent.
5. The Complainant submits that the PIO had filed a reply dated 13/12/2018 and that he has submitted his counter reply & arguments dated 21/02/2018 and that the Commission should first pass an order on the said reply by either dismissing or allowing it. The Complainant further states he has no other argument to make.
6. The Commission on perusing the material on record at the outset finds that the Complainant had earlier filed a Second Appeal in this Commission pertaining the same matter being Appeal No.147/SIC/2015 and which was decided by this Commission on 02/06/2017 and all proceedings in the said Appeal have been closed. In the said order the PIO was directed to give clear answer whether the information as sought by the Appellant pertaining to the year 2001- 2011 is available in the records or not. And if so available the copies should be furnished free of cost. It was also stated in the said order that the aggrieved party, if any, may move against the order by way of a writ petition as no further appeal is provided against the order under the RTI act 2005.
7. It is seen that the said PIO has complied with the Order of the Commission by furnishing a reply dated 11/08/2017. In the said reply the PIO has clearly answered in paragraph No. 2 thus: "In pursuance of the said direction passed by the Goa State Information Commission in Appeal No. 147/SIC/2015. I hereby inform you that the information sought by you pertaining to the year from 2001-2011 is not available in the records of the office. In case you are not satisfied with this reply within 30 days, you may file appeal against this to the First Appellate Authority at the State Registrar-cum-Head of Notary Services, Patto, Panaji-Goa."

8. The Commission finds that the PIO has not violated the order dated 02/06/2018 of this commission as is alleged by the Complainant. Further, the Complainant has not filed a First Appeal with the First Appellate Authority and has approached the Commission directly with a Complaint without exhausting the remedy of First Appeal, as such the Complaint case on this count itself is not maintainable. (*Supreme Court Judgment in CIC vs. State of Manipur & Another-Civil Appeal No 10787-10788 arising out of SLP @ No. 32768-32769/2010* )
9. The Commission has also perused the replies filed by the PIO on 13/12/2017 and the counter reply/ arguments filed by the Complainant dated 21/02/2018.
10. The PIO in his reply in paragraph No. 05 has stated that the Complainant is seeking to obstruct a public servant from performing his duty by filing threatening & frivolous Complaint such as the present Complaint which threatens of penal action on the basis of vague allegations. In para No.7 of the said reply the PIO has stated that the Complaint may be dismissed and strict action initiated against Complainant as he was seeking to obstruct of public servant from performing duty and which appears to be a serious charge.
11. The complainant in his rejoinder has sought to raise extraneous issues by accusing the PIO of cheating by accepting false affidavits from sellers swearing that persons who have executed Power of attorneys are still alive when they are already dead. Such derogatory remarks are totally unwarranted and uncalled for. The Complainant has enclosed with his reply Xerox copies of power of attorney, death certificates, Pan card, Affidavits, Mutations and other such documents. The Commission finds that such documents are not relevant in deciding the present complaint case, moreover the Complainant has not enclosed copy of the RTI application and as such it is not known what exact information he is seeking. Also it is not understood as to why these copies were not produced earlier at the time of the Second Appeal No.147/SIC/2015. ..4

12. In view of the fact that the PIO has furnished a reply dated 19/01/2015 stating that 16 Deeds of Sale from 16/06/2009 to 01/05/2015 are found registered in the computer system and to collect them on payment of necessary fees and a further reply dated 11/08/2017 in compliance with the Order passed by this Commission on 02/06/2017, this is sufficient to prove the bonafide that there is no malafide intention on the part the PIO to deny or conceal the information, as such the PIO has not faulted in anyway.
13. As stipulated in the RTI act the role of the PIO is to provide information as is available, what is available and if available in the records. The PIO is not called upon to research or to analyze or create information as per the whims and fancies of the Complainant.
14. The RTI Act cannot be converted into a forum for redressing personal grievances, complaints and its subsequent enquiry and the Commission observes this to be a classic instance of blatant misuse of RTI act where the Complainant has resorted to filing numerous applications, representations and other correspondence which has caused a drain on the public exchequer and also resulted in non-productive work for the PIO who in this case is the Sub-Registrar cum Civil Registrar, Mapusa-Goa who is managing a busy public office and had to collect information, besides attending hearings, filing replies for redressing the grievance of the Complainant.

The Hon'ble Supreme Court of India in Civil Appeal No.6454 of 2011, Central Board of Secondary Education & others v/s Aditya Bandopadhyay & others has held as follows:-

*"Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information.*

*The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens.*

*Nor should it be converted into a tool of oppression or intimidation of honest official striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure on the authorities under the RTI Act should not lead to employees of a public authorities prioritizing information furnishing at the cost of their normal and regular duties”.*

**The Commission accordingly finds that the complaint case is totally devoid of any merit and stands dismissed.**

13. This apart, the Commission finds that this same matter has already been agitated before this Commission by way of Second Appeal and that the PIO has complied with the Order passed by this Commission. Since the matter has already been agitated once by way of a Second Appeal before this Commission and the matter disposed, as such the Complainant is precluded by the universal principles of *Res Judicata* (already decided) from agitating the same matter again through a Complaint under section 18 of 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.*

**The Complaint case is thus not maintainable. Consequently the prayer of the Complainant for imposing penalty and for other reliefs stand rejected.**

15. Before parting, the Commission has also perused an Application filed by Shri Pedrito Misquitta alias Shri John Peter Mesquitta dated 11/04/2018 (i.e one day after the passing of the order) to withhold the dismissal order and at the outset holds that the Complainant has filed the said application with the sole objective to thwart the order of this Commission. Also there is no such provision under the RTI act 2005 for withholding an order once pronounced and passed by the Commission at the conclusion of the hearing before the party present and as such the application is dismissed as not maintainable.
16. The Commission places on record that aspersions cast by the Complainant and tone and language used in the said application are downright disrespectful and shows that the Complainant has scant regard and respect for the orders passed by this Commission. It seems that the Complainant has made it a habit of making wild allegations on the presiding Commissioner without any truth whenever he finds that the case is going against him.
17. The Commission hears and decides cases which are assigned to the respective chamber purely on merits. If the Complainant has a grudge and wanted transfer of the case, he could have raised the issue in the beginning after receiving the notice and being present for the hearing on 13/12/2017 and not after the order has been pronounced and case disposed.
18. The Commission strongly condemns and takes a serious view of the Complainant using such pressure tactics to have his case transferred. The Commission however lets off the Complainant this time with a stern warning and expects that he shall maintain the dignity, decorum and respect of the Commission.

With these observations 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.

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**Juino De Souza**  
**State Information Commissioner**