

GOA STATE INFORMATION COMMISSION

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

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

Complaint No.42/SCIC/2017

Smt. Antonia Michelle Abel,
Flat A-3 Bella Vista Apartments,
O' Coqueiro Circle,
Alto Porvorim,
Goa 403521. Complainant.

V/s

The Chief Secretary,
Government of Goa,
The Secretariat,
Porvorim –Goa 403521. Respondent

Filed on :2/3/2016

Disposed on:27/4/2018

O R D E R

1. The complainant herein by her application, dated 20/9/2014 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from Central Public Information Officer (CPIO), Ministry of Home Affairs New Delhi seeking several information pertaining to Goa Legislative Assembly. According to complainant the said application was transferred to the Govt. of Goa to reply to points nos.3,4,6 and 8 therein.

2. According to complainant as the respondent herein did not take any action, she filed another application under the act on 27/6/2015 who replied. But according to complainant the information was not furnished on the contrary transferred the same to General Administration Department (GAD). It is further according to complainant the application could not have been transferred.

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3. The complainant thereafter filed another application for information on 27/6/2017 which was replied on 5/7/2015 which according to her was vague and with lengthy comments. and finally transferring point no.7. The complainant again has the objection for such transfer.

4. The complainant filed first appeal to First Appellate Authority of chief Secretary on 11/7/2015. According to her reply filed by PIO therein was confusing with similar application, dated 20/9/2014. However according to the complainant till date no order is passed by the FAA.

5. The complainant has therefore landed before this commission by way of complaint u/s 18 of the act .

6. Notices were issued to the parties, pursuant to which they appeared. The PIO on 26/3/2018 filed reply to the complaint .It was submitted on behalf of the respondent that the reply be treated as the arguments. The complainant never attended the hearing inspite of intimation to her.

7. The act provides for filing of complaint against the PIO and the reliefs which could be granted there under are only against the PIO. The complainant has not joined the PIO herein. Notwithstanding this fact the present complaint is also dealt with otherwise.

8. In the light of the ratio laid down by the Supreme court in the case of **Chief Information Commissioner and another v/s State of Manipur and another (civil Appeal No. 10787-10788 of 2011)** holding that “*proceedings being a complaint u/s 18 of the act the only relief which could be considered are the relief of penalty*”, the issue to be considered herein would be only the issue of penalty.

9. In the present case according to the complainant the application under section 6(1) was addressed to CPIO, Ministry of Home Affairs which was transferred subsequently to Government of Goa for furnishing information on limited point numbers 3, 4, 6 and 8. According to complainant as she has not received any communication she filed another application under section 6(1) dated 22/06/2015. Thus the complainant has joined the issues in two different applications. According to the complainant by the reply dated 26/08/2015 the PIO has confused the said application with another application dated 29/09/2014 to Department of Law and Legal Affairs.

10. In the complaint the complainant has also raised objection to the action of the Chief Secretary in transferring the applications as according to her the respondent has to take and deal with all the communication including RTI application. The complainant has also referred to a publication in the news papers. Taking exception and objection to the working of the respondents, the complainant has prayed to provide information as also to hold inquiry and to take action against the respondents.

11. The Hon'ble High Court of Bombay, Goa bench at Panaji, while dealing with a case of penalty (***Writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others***) has observed:

"11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."

12. The complainant by her several conflicting, confusing and complex statement in the memo has not clarified nor this Commission can arrive to any finding as to how the delay or non furnishing of the information could be solely attributed to the respondent herein. The complainant has not joined any designated officers under the act for seeking penalty as is required u/s 18. The complainant has not made out any case for granting the relief under section 20(1) and/or 20(2) of the act.

In the circumstances I find no substance in the case. The same stands dismissed. Consequently the notice dated 19/02/2018 stands withdrawn.

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