

GOA STATE INFORMATION COMMISSION

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

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Complaint No. 21/2022/SCIC

Shri. Mohammed Hussain Shaikh,
Bldg. No. CF-3, Rehabilitation Board,
GRB Colony, Headland Sada,
Mormugao, Goa 403804.

.....Complainant

V/S

Shri. Cajetan Fernandes,
Public Information Officer,
Office of Dy. Director (Planning),
Directorate of Education,
Porvorim-Goa.

.....Opponent

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 06/05/2022

Decided on: 29/09/2022

ORDER

1. The Complainant, Mr. Mohammed Hussain Shaikh r/o. Bldg No. CF-3, Rehabilitation Board, GRB Colony, Headland Sada, Mormugao, Goa has filed the present application/ complaint for review of the Order No. 18/2021/SCIC dated 27/04/2022 by way of this application/ complaint.
2. It is the case of the Complainant that he is aggrieved and dissatisfied with the order of the Commission for failure to impose penalty and also recommend disciplinary action against the PIO and for non awarding of the compensation.
3. Notice were served upon the parties, pursuant to which the representative of the Complainant, Mr. Karim Mulla appeared, the Opponent Mr. Cajetan Fernandes appeared on 11/08/2022 and filed his reply.
4. Perused the review application/complaint, reply filed by the Opponent, scrutinised the documents on record and considered the submissions of the rival parties.

5. On going through the content of the application for review/complaint it is revealed that the Complainant has filed the present proceeding to review the order dated 27/04/2022 passed by the Commission and prayed that, opponent be directed to provide complete information, to recommend penal action against the PIO and to award the compensation.
6. As far as RTI Act is concerned, this Commission has no powers to review, unless it is in exercise of general inherent power to review its decision which has erred in fact or in law. However, considering the powers conferred on the Commission under section 18(3) of the Act as that of the Civil court, while trying a suit under the Code of Civil Procedure 1908 (CPC), the application/ complaint under consideration will have to be decided as under Section 151 and 152 of the Code of Civil Procedure 1908 (Code).
7. Section 152 of the Code permits amendments of Judgements and decree arising out of accidental slips or omissions and not otherwise. Section 151 of the Code also grants powers to the Presiding Officer as may be necessary for ends of justice and prevent abuse of process of the Court. While determining this review application, same cannot be held to be an arithmetical or clerical mistake nor is it accidental slip, capable of being corrected. It is also not the ground of the application that there was violation of principle of natural justice for breach of opportunity of hearing. In nut shell the Complainant failed to establish the statutory parameters as required under the law.
8. In the present case no fresh ground for reconsidering the decision is made out by the Complainant. The order dated 27/04/2022 in case No. 18/2021/SCIC is self explanatory and a reasoned order based on the documents and submissions of the parties.

9. The Central Information Commission in the case **Mani Ram Sharma v/s Central Information Commission (CIC/WB/A/2009/00016)** has held that:-

"The Right to Information Act cannot be sought to be used to circumvent the procedure of the law. Moreover, under the right to Information Act, the Chief Information Commissioner has no authority to review a decision of the Commission."

Therefore deciding the Complaint No. 18/2021/SCIC dated 27/04/2022, the Commission neither exceeded nor failed to exercise jurisdiction lawfully vested in it while dismissing the same.

10. The High Court of Delhi in the case **Delhi Development Authority v/s Central Information Commission (W. P. No.(c) 12714/2009)** has held that:-

".....Neither the RTI Act nor the rules framed thereunder grant the power of review to the Central Information Commission or the Chief Information Commissioner. Once the statute does not provide for the power of review, the Chief Information Commissioner cannot, without any authority of law, assume the power of review

.....The Central Information Commission is a creature of the statute and its powers and functions are circumscribed by the statute. It does not exercise any power outside the statute."

11. In view of above, I am of the opinion that present review application is not maintainable. Consequently the review application/ complaint is dismissed being not maintainable.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner