

GOA STATE INFORMATION COMMISSION
AT PANAJI

CORAM: Shri. M. S. Keny, State Chief Information Commissioner

Complaint No. 197/SCIC/2010

Mr. Rupesh K. Porob,
Shashi Sadan, H. No. 133/3,
Palmar Pomburpa,
Bardez - Goa

... Complainant

V/s.

1. First Appellate Authority,
The Superintending of Works,
Public Works Department,
Altinho, Panaji

... Opponent No. 1.

2. Inward Clerk/Dealing Clerk in R.T.I.,
O/o. The Superintending Surveyor of Works,
P.W.D., Altinho,
Panjim-Goa

... Opponent No. 2.

Complainant in person.

Adv. S. Parab for Complainant.

Opponent in person.

ORDER
(21.06.2010)

1. The Complainant, Rupesh K. Porob, has filed this Complaint praying that Opponent be held under disciplinary action for refusing to accept the application under Right to Information Act, 2005 and also for acting in an arbitrary and irresponsible manner thus behaving rudely disregarding the request of the Complainant/authorized person and that penalty be imposed for deemed refusal to accept the application.

2. The gist of the Complainant's case is that the Complainant vide his application dated 05.03.2010 under Right to Information Act, 2005 (RTI Act for short) requested Opponent No. 1 – First Appellate Authority to provide file under 1st Appeal No. 133/2010 and 136/2010 for the inspection. That on 05.03.2010 the Complainant approached the Superintending Surveyor of Works so also the Dealing Inward Clerk in their office to submit a letter for inspection of the said files but both

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the Opponents refused to accept the same and the same was sent back without making entry in the Inward Register. It is the case of the Complainant that on the same day, i.e. on 05.03.2010 the Complainant with a covering letter submitted the said letter for inspection of file to the Principal Chief Engineer, Public Works Department for needful action. That the Opponents have failed to exercise their jurisdiction and perform their duties and hence the Complainant preferred this Complaint.

3. The Opponent resists the application and their say is on record. It is the case of the Opponent that the Dealing Clerk had told the Applicant/Complainant that she will show the letters to the Opponent No. 1 and then make the necessary Inward entry on the letters which the Applicant refused but again tried to force the Dealing Clerk to make the necessary entry without bringing the same to the notice of the Opponent No. 1. That the Opponent No. 1 has given specific instructions to the Dealing Clerk to bring to the notice of the Opponent No. 1 the application which are being received under the RTI Act before making entry in the Register being maintained in their office. That the Complainant refused to agree with the Dealing Clerk to bring to the notice of the Opponent No. 1 the said letter brought by him and that clearly shows that he had ulterior motive. It is further the case of the Opponent that Opponent No. 1 cannot accept the above cited letter therefore the same was returned and he was directed to give necessary entry in the office.

4. Heard the Complainant as well as the Opponent No. 1 and perused the records.

I have carefully perused the letter dated 05.03.2010 addressed to the First Appellate Authority, i.e. Opponent No. 1 herein. It mentions "Kindly issue me the file bearing 1st Appeal No. 133/2010 and Appeal No. 136/2010 for inspection under Right to Information." It is to be noted here that the same is purportedly filed under RTI Act but the same is not accompanied with proper fees. It is pertinent to note that application without fee cannot be treated as RTI application. Again,

same has not been filed before the proper authority. Normally, such an application ought to have been filed before concerned Public Information Officer.

In fact, in one case Dr. K. N. Gehlot V/s. West Central Railway, Jabalpur (No. CIC/OK/C/2006/00119 dated 02.11.2006) it was held that since the application was not made to the proper authority nor the requisite fees deposited alongwith the application, it cannot be held that information was denied by the Public Information Officer.

In short, application without fee is not maintainable under RTI Act.

5. This Commission can entertain the Complaints under section 18 if any officer refused to accept the application. In the factual matrix of this case it cannot be held that the application is an act of refusal on the part of the officer under RTI Act and, therefore, in my view the present Complaint is not maintainable. However, RTI Act is a people friendly and user friendly Act and, therefore, Complainant if he wishes to have the said information, he should make a proper application accompanied with prescribed fee before concerned Authority/Officer so that his request can be granted.

6. In view of all the above the Complaint is not maintainable. Hence, I pass the following order:

The Complaint is disposed off. The Complainant is free to make fresh application after paying the prescribed fees.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 21st day of June, 2010

Sd/-
(M. S. Keny)
State Chief Information Commissioner