

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.162/SCIC/2010

Mr. Ajit S. Porob
"SHASHI SADAN",
H.No. 133/3,Palmar- Pomburpa,
Bardez-Goa.

... Complainant

V/s

1) The Asst. Public Information Officer,
Asst. Engineer (R) Sub-Div.II,
P.W.D., Ponda –Goa.

... Opponent No.1.

2) The State Public Information Officer/
Executive Engineer (R) W. Div. XVIII,
P.W.D., Ponda –Goa.

... Opponent No.2.

Shri Rajesh Parab, representative of the Complainant in person.
Opponent No. 1 and 2 in person.

O R D E R
(21/06/2010)

1. The Complainant, Shri Ajit S. Porob, has filed the present Complaint praying that Opponents be directed to furnish the information sought vide applications dated 06/01/2010 and that the said information be furnished free of charge, that disciplinary action be taken and that penalty be imposed.

2. The brief facts leading to the present Complaint are as under:-

That the Complainant by his applications dated 06/01/2010 sought certain information under Right to Information Act 2005 ('RTI' Act for short). That the Opponent No. 1 acknowledged the receipt of the said applications. That on 21/02/2010 the Complainant received a letter dated 18/02/2010 bearing reference No.4/11/2009-2010/PWD/DIV.XVII(R) ADM/1441 from Opponent No. 2 asking the Complainant to collect the documents on furnishing the identity of the Complainant. That only certified copies of Acquittance Roll signed by Miss Manisha were issued. That no information was furnished

regarding application dated 08/01/2010 and regarding other application dated 11/01/2010 the Opponent No. 2 furnished incorrect and incomplete information. That the Opponent No. 1 and 2 have failed to furnish the information sought. Hence the present Complaint on the grounds as mentioned therein.

3. Opponents have filed their say, which is on record. It is the case of the Opponents that they received the application and processed the same as it was received in the office. However, it was observed that application fee under section 6 (1) of the Right to Information Act was not enclosed by the Complainant. It is further the case of the Opponents that as per the RTI Act application fee in the prescribed format should accompany the application, which was not done and hence the information could not be provided to him.

4. Heard Shri Rupesh Parab representative of the Complainant and the Opponent. It is not in dispute that application were not affixed with prescribed fee.

I have perused the records particularly the applications dated 06/01/2010. It appears that the same were sent by Registered A/D post. Both mention about paying Rs.10/- i.e. "I hereby pay Rs. 10/- as processing fees for"

Representative of the Complainant admits of not having paid the amount but according to him part information has been given.

5. It is to be noted here that for obtaining information under RTI Act the Applicant/Information seeker is called upon to pay certain charges, or fees depending upon the type or volume of information sought. Whenever an

applicant seeks information under the Act, he is required to pay a prescribed application fee failing which information would not be supplied under section 6 (1) of the Act, the application for information is to be accompanied with the prescribed fee.

I have perused some of the rulings of C.I.C. on the point. Application without fee is not treated as RTI application nor it is maintainable under RTI Act. To be noted further that rules regarding fees leave little discretion with Public Authority.

6. Regarding mode of payment. We are governed by Goa Right to Information (Regulation of fee and cost) Rules 2006 (Notification No.DI/INF/RTI/BILL/05/6474 dated 15/02/2006 and Notification No.DI/INF/RTI/BILL/05/1129 dated 27/07/2007) As per the same fee is payable by way of cash against a proper receipt, or by demand draft, or a Banker's cheque payable to the concerned Public Information Officer or by affixing a Court fee stamp of Rs. 10/-. Although cash is valid mode of payment, the same has to be deposited in person or through representative and receipt should be obtained.

In one case currency note of Rs. 10/- was sent alongwith the application. However, the same was not considered holding that currency note cannot be sent in envelope alongwith the application.

In view of the above, Public Information Officer cannot be blamed for not furnishing the information and he cannot be held responsible or liable for any action.

7. It is pertinent to note that Right to Information Act is a people friendly and people user Act. Right to Information Act has been enacted to provide for a legal right to Information for citizens to secure access to information under the control of Public Authorities, in order to promote transparency and accountability in the working of every Public Authority. No democratic Government can survive without accountability and the basic postulate of accountability is that people should have information. Therefore, in future, if fee is not paid alongwith the application or paid in a manner not prescribed in the fee rules, the Public Information Officer should start processing the application immediately on receipt. The information may actually be provided only on payment of fee.

8. In the factual backdrop of this case no action can be taken against the Public Information Officer as prayed for by the Complainant. In any case the following order would meet the ends of justice.

“Public Information Officer/Opponent to process the application and furnish the information sought within 20 days from the receipt of the order. The Appellant to pay the fee/fees and the information be provided only on payment of fee.

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

