

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No.196/SCIC/2010

Shri Kashinath Shetye,
Bambino Building, Alto-Fondvem,
Ribandar, Tiswadi – Goa.

..... Complainant.

V/s.

Public Information Officer,
Directorate of Fisheries,
Panaji - Goa.

..... Opponent/Respondent.

Complainant absent. Shri Dr. Ketan Govekar, representative of Complainant present.

Opponent in person.

ORDER **(07-07-2010)**

1. The Complainant, Shri Kashinath Shetye, has filed this Complaint praying that information as requested by the Complainant be furnished to him correctly free of cost as per section 7(6) and as per circular and in annexure I to V; that penalty be imposed on P.I.O. as per law for denying the information to the Complainant; that compensation be granted and that inspection of documents be allowed.

2. The gist of Complainant's case is as under: -

That the Complainant had filed an application dated 14/1/2010 under Right to Information Act, 2005 ('RTI' Act for short) thereby requesting the Public Information Officer, Department of Information Technology to issue information specified therein, which was transferred as per section 6(3) of the RTI Act to the Opponent. That the Public Information Officer ('P.I.O')/Opponent failed to furnish the required information as per the application of the Complainant and that no inspection of Information was allowed. Considering the said non-action on behalf of Opponent No.1 of the Right to Information Act, the Complainant preferred this Complaint on the grounds as set out in the Complaint.

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3. The Opponent resists the application and his say is on record. It is the case of the Opponent that the present Complaint does not come within the ambit of section 18 of Right to Information Act and ought to be dismissed. That Complaint is premature. That no first appeal is preferred. That no complaint lies as information is not refused and that no misleading information has been given. That no application under section 6 (3) lies and that application ought to have been filed separately and not to one Public Information Officer. On merits it is the case of the Opponent that they received the application dated 14/01/2010 under section 6(3) to furnish information to point No. 3 to the Complainant by letter dated 10/2/2010 addressed to the Complainant. The Opponent forwarded the certified copy of the information requested by the complainant and further requested him to make the payment of Rs. 2/- as charges. However, complainant failed and/or neglected to make the said payment. Hence there is no refusal to furnish the information. That no inspection was sought. That this Opponent had to furnish the information to the Complainant only with regard to item No.3. That the Complainant filed the complaint without any valid ground and the Complaint should be dismissed.

4. Heard the argument, Dr. Ketan Govekar the representative of the Complainant argued on the behalf of the Complainant and Adv. Shri K.L. Bhagat argued on the behalf of the Opponent. I have carefully gone through the records of the case and also considered the argument advanced by both sides. It is not in dispute that Complainant filed the application. It is also not in dispute that the Complainant's application was transferred to this opponent under section 6(3) in respect of point at Sr. No.3. It is seen that by letter dated 10/02/2010 the Opponent forwarded certified copy of the information requested to the complainant and Complainant was also requested to pay Rs. 2/- towards the document supplied. Considering this the information was sent within stipulated

...3/-

time. It is seen that whatever information was available was furnished. It is to be noted, that a citizen is entitled only information which is available with the public Authority in material form. In other words what is available is to be furnished. I have seen the reply and the information sent from the same. It appears that Opponent maintained the File Movement Index in only one annexure and not in five annexure, as per the circular dated 09/06/2009.

5. During the course of argument, the Opponent and his Adv. state that of late they have stated maintaining the FMI as per the Circular of the Chief Secretary dated 09/06/2009 and they are prepared to furnish the copy in five annexures.

6. Regarding, maintainability of Complainant, I do agree with Adv. Bhagat when he contends that Complaint is not maintainable. It is true that the Complaint is premature. However, in view of the above statement, we need not touch this aspect.

7. Reply is in time, so the question of penalty does not arise. Since, reply is in time section 7(6) is not attracted so also question of compensation does not arise.

In view of all the above I pass the following order:-

“No intervention of this Commission is required. The Complaint is disposed off.”

The Opponent to follow the said circular dated 09/06/2009 and maintain the File Movement Index as per the same in five annexure i.e. I to V.

Complaint is accordingly disposed off.

Pronounced in the Commission on the 7th day of July, 2010.

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

