

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No. 73/SCIC/2010

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

..... Complainant.

V/s.

Public Information Officer,
Department Fire and Emergency Services,
Panaji - Goa.

..... Opponent

Complainant absent.

Adv. K. L. Bhagat, for the Opponent in person.

ORDER **(05-07-2010)**

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 the 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 RTI Act the Complainant preferred this Complaint on the grounds as set out in the Complaint.

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3. The Opponent resists the Complaint and the say is on record. It is the case of the Opponent that the present complaint does not fall within the ambit of section 18 of the Right to Information Act and hence ought to be dismissed. That the same is premature. That the complainant did not approach the Firs Appellate Authority. That section 6(3) is not at all attracted in the sense that such an application ought to have been made with the concerned Department. On merits it is the case of the Opponent that on receipt of the said application under section 6(3) this opponent vide its letter dated DFS/EST/u-1/289-115/RTIA/09-10/6448 dated 10/02/2010 informed the Complaint that the File Movement Index was not yet been implemented in the Directorate of Fire and Emergency Services, however, the same was under the process of implementation. That no inspection was sought and the letter referred only to point No. 3. According to the Opponent Complaint is liable to be dismissed.

4. Heard Adv. Shri K. L Bhagat and perused the records. It is seen that the Complainant vide his application dated 14/01/2010 sought certain information from the Public Information Officer Department of Information Technology. That the said PIO transferred the said application under section 6(3) in respect of point No. 3 (Sr. No.3) so as to give the suitable reply to the Opponent herein. It is seen that by letter dated 10/02/2010, the opponent informed the Complainant that F.M.I. is not yet implemented in their Directorate and that the same is under process of implementation.

I have perused the grounds mentioned in the Complaint the same are not applicable to the facts of this case. It is to be noted here that opponent has informed the Complainant that no F.M.I. is implemented. To be noted further non-existent information cannot physically be furnished. If information is not available the same cannot be furnished.

5. Adv. for Opponent contends that there is no ground to file the present complaint and that Complaint is premature and not maintainable. I do agree with this contention. In the factual matrix of this case no complaint is maintainable. However, I need not touch to this aspect much.

Opponent submits that they have now started maintaining F.M.I the five annexure and offered to furnish the copy if directed.

6. Regarding delay. Considering the reply no delay can be attributed to the Opponents. In the facts of this case section 7(6) of Right to Information Act is not attracted. The question of compensation also does not arise.

7. Since the Opponent has offered to furnish the information I pass the following order:-

"No intervention of this Commission is required. The Opponent to maintain F.M.I as per the circular dated 09/06/2009 and in five annexures i.e. I to V and report compliance with in 30 days from the receipt of this Order.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 5th day of July, 2010.

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

