

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No. 304/SCIC/2010

- 1) Shri Kashinath Shetye,
Bambino Building, Alto-Fondvem,
Ribandar, Tiswadi – Goa.
- 2) Adv. Atish Mandrekar,
Vodlem Bhat,
Taleigao –Goa.

..... Complainants.

V/s.

Public Information Officer,
Khadi & Village Industries Board,
Panaji - Goa.

..... Opponent/Respondent.

Complainant present.

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

ORDER **(13-07-2010)**

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 15/02/2010 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.

...2/-

3. The Opponent resists the Application and their say is on record. It is the case of the Opponent that the present Complaint does not fall within the ambit of the Right to Information Act and hence should be dismissed in the limine. That the present Complaint is premature and as the complainant has not taken recourse of approaching the First Appellate Authority and as such the Complaint is liable to be dismissed. That the Complaint is not at all maintainable. That the present case does not fall within the ambit of transfer under section 6(3) as the Complainant could not make an application to the Public Information Officer of one department and request him to furnish the information pertaining to information or documents of other Government Departments. On merit it is the case of the Opponent that on receipt of the application under section 6(3) the Opponent vide letter dated 12/03/2010 informed the Complainant that the circular No. 35/2009-ARD/dt. 9/6/2009 has not been implemented. That this was intimated to the Complainant within a period of 30 days. From the receipt of the letter under section 6(3) that no inspection was sought. That the Public Information Officer is not bound to make available to the information seeker the information which is not maintained and not available. In short it is the case of the Opponent that the ground mentioned in the Complaint are not attracted.

4. Heard the Complainant in person and Adv. K. L. Bhagat for the Opponent and perused the records. It is seen that the Complainant has sought certain information from the Public Information Officer, Department of Information and Technology. It is seen that the said letter was transferred under section 6(3) to the Opponent in respect of point at Sr. No. 3, so as to give a suitable reply. It is seen by letter dated 12/03/2010 though the Opponent informed the Complainant that they have not implemented the said Circular so far. In other words the File Movement Index is not maintained by the Opponent. This reply is sent in time i.e.

...3/-

within 30 days. From the reply it could not be said that the Opponent failed to furnish information. Non-existent information cannot be physically given. Yet, the Complainant preferred the present Complaint. The main contention of the Complainant is that no information is furnished to him. From the said letter and the reply filed it becomes clear that the File Movement Index is not maintained, therefore, the question of furnishing the information does not arise. It is to be noted here that Public Information Officer is obligated to give only the information available with him. During the course of the argument Adv. Shri Bhagat for the Opponent as well as Public Information Officer state that they will maintain the File Movement Index as per the circular.

Looking at the factual backdrop this Complaint is not maintainable. However, in view of submissions of the Opponent I need not refer to this aspect much.

5. I have perused the circular dated 09/06/2009 which is on record. The same aims at speedy disposal of files and curtails delay and to some extent shows accountability. In any case, there is no harm if this is implemented by the Office of the Opponent herein. Opponent also states that they will maintain the same in five annexures.

6. Regarding prayers in the Complaint prayer (i) cannot be granted in view of all the above. There is no delay as such, therefore question of penalty does not arise. So also the question of granting compensation does not arise.

7. In view of all the above no intervention of this Commission is required. Hence I pass the following order:-

...4/-

8. "No intervention of this Commission is required.

Opponent to follow the said circular dated 09/06/2009 and maintain File Movement Index as per the said circular and in five annexures I to V. The Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on the 13th day of July, 2010.

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

