

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 404/SIC/2010

Shri Ajay E. Vellingiri,
H. No. GAI/GL/38,
Behind Old M.P.T. Hospital,
Vasco-da-Gama – Goa

... Complainant

V/s.

Public Information Officer,
Mormugao Municipal Council,
Vasco-da-Gama, – Goa

... Opponent.

Complainant in person.

Opponent absent.

Dated: 27.07.2010

ORDER

The Complainant on 04.01.2010 sought information under RTI Act from the Respondent and requires:

- 1) Copy of reply given by Mr. Ramesh Girap against the Show Cause Notice vide No. MMC/Tech/2/(VK)/2009-10/750 served to him for undertaking illegal construction of rooms adjoining to his old existing house.
- 2) Proper date, time of Final Notice delivered to Mr. Ramesh Girap vide no. MMC/Tech/2(V.K.)/2009-10/1340 dated 14/12/2009.
- 3) Copy of stay produced by Mr. Ramesh Girap against the “Final Notice” as regards to point No. 2 with confirmed date and time.
- 4) Details of total amount as fine imposed to Mr. Ramesh Girap under section 184(9) of Goa Municipality Act, 1968 for not complying with the “Final Notice” (vide No. MMC/Tech/2/V.K.)/2009-10/1340 dated 14/12/2009) served to him.

The Opponent in the communication dated 03.02.2010 provided the information sought at Sr. No. 1 to 4 to the request dated 04.01.2010. Not content with the reply the Complainant preferred the First Appeal and the following Order was passed by the First Appellate Authority:

“The respondent has replied to issue No. 4 that no fine has been imposed so far. Appellant wants to know why fine is not imposed. The respondent agreed to give reasons why fine is not imposed within 10 days. The respondent shall furnish the reasons under statutory provisions to the appellant for not imposing the fine within 10 days from the date of order i.e. 26/2/2010.”

...2/-

In compliance to the Order of the First Appellate Authority the Opponent by letter dated 26.04.2010 stated that the Council cannot levy fine but it is the powers of a Magistrate's Court to do so after conviction upon filing a criminal complaint. On the ground that the Opponent failed to give the information sought within ten days as per Order of the First Appellate Authority, preferred this Complaint with a prayer to provide the information as fast as possible and fine be imposed on the Opponent for violating the Orders of the First Appellate Authority.

2. In the reply dated 03.02.2010 the Opponent provided the information sought at Sr. No. 4 in the request dated 03.02.2010, so also in compliance to the Orders of the First Appellate Authority dated 26.02.2010, the Opponent provided the information at Sr. No. 4 ON 26.04.2010. It is strange that the First Appellant Authority in his Order dated 26.04.2010 directed the Opponent to give the reasons why fine is not imposed when the Complainant himself in his request dated 04.04.2010 needs the details of amount as fine imposed. The reasons for not imposing the fine cannot be asked under the RTI Act and the First Appellate Authority could not direct the Opponent to give the reasons why the fine was not imposed. Rightly the Opponent answered the question at Sr. No. 4 initially by stating that no fine has been imposed on Ramesh Girap and subsequently in compliance to the Order of the First Appellate Authority by clarification stating that the Council cannot give fine but only the Magistrate, and that too, on a conviction upon a criminal complaint filed. Since the Opponent has provided the information to the Complainant, there are no reasons to proceed further and the Complaint is disposed off.

Sd/-
(Afonso Araujo)
State Information Commissioner

