

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 298/SCIC/2010

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

..... Complainant.

V/s.

Public Information Officer,
Corporation of City of Panaji,
Panaji - Goa.

..... Opponent/Respondent.

Complainant present in person.
Opponent alongwith Adv. S. Desai.

ORDER
(11-08-2010)

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

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

That the Complainant had filed an application dated 09/02/2010 under Right to Information Act, 2005 ('RTI' Act for short) thereby requesting the P. I. O. to issue information specified therein. That the PIO/Opponent failed to furnish the required information as per the application of the Complainant and further no inspection of information was allowed. Being aggrieved the Complainant preferred the present Complaint on the grounds as set out in the Complaint.

3. The Opponent resists the Complaint and their reply is on record. It is the case of the Opponent that Complaint is not tenable in law and is based on complete misconstruction and misinterpretation of provision of RTI Act. That the Complainant did not approach the Appellate forum and has directly approached this Commission.

...2/-

That the information sought by the Complainant was voluminous and after elaborate searches in the records of the Corporation of City of Panaji the said application was replied to on 08.03.2010 and that the Complainant was given information that was available. That Opponent made all efforts to trace the file and furnish whatever information it could with regard to the information sought. It is the case of the Opponent that Opponent could not furnish all the information as sought by the Complainant. That some files pertain to pre-liberation period and very old buildings. In short, it is the case of the Opponent that whatever information was available was furnished to the Complainant.

4. Heard the arguments. The Complainant argued in person and the Learned Adv. Shri Shivan Desai argued on behalf of Opponent. According to the Complainant information is incomplete. He also submitted that Opponent's Corporation is taking house tax, etc. According to him Complaint is maintainable.

Advocate for the Opponent referred to the facts of the case in detail. According to him the application is in respect of twenty five buildings. Application dated 09.02.2010 has been replied in time and information has been furnished only in respect of three files. Advocate for the Opponent also argued about maintainability of the Complaint, non-filing of the First Appeal, etc. He also submitted that information is not incomplete.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief sought is to be granted or not.

It is seen that the application was filed on 09.02.2010. By reply dated 08.03.2010 some information as available was furnished. According to the

Opponent some buildings are of pre-liberation period and the plans of which may not be existing. This reply is in time. According to the Opponent existing information has been furnished.

It is to be noted here that section 2(a) provides only information held by or under the control of any Public Authority. It, therefore, necessarily implies that the information to which the information seeker is entitled can only be that which is available in the records of Public Authority concerned. RTI Act does not make it obligatory on the part of Public Authority to create information for the purpose of dissemination.

6. Advocate for the Complainant contends about maintainability of the Complaint. He also submits about nature of information which is voluminous and that only the files pertaining to 2-3 buildings are available.

I need not address to these aspect as during the course of arguments the Opponent offered to furnish whatever information they have and that too, in a proper manner as asked for. It is pertinent to note here that information is furnished. However, it is not in the format asked.

7. Coming to the prayers, there is no delay as such. In view of what is stated above section 7(6) is not attracted. Since there is no delay the question of penalty does not arise. So also the question of compensation does not arise.

8. In view of all above, I pass the following Order:

ORDER

The Opponent to furnish the available information to the Complainant vide his

...4/-

:: 4 ::

application dated 09.02.2010 in a proper format within thirty days from the date of receipt of this Order.

Inspection, if any, can be given on a mutually agreed date.

Complaint is accordingly disposed off.

Pronounced in the Commission on this 11th day of August, 2010.

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