

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No. 75/SCIC/2010**

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

..... Complainant.

V/s.

Public Information Officer,  
State Registrar,  
Head of Notary Services,  
Shram Shakti Bhavan, Patto,  
Panaji-Goa.

..... Opponent/Respondent.

Complainant absent. Ms. Sonia Satardekar, representative of Complainant present.

Opponent alongwith Adv. H. Naik.

**ORDER**  
**(03-08-2010)**

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 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 their reply is on record. It is the case of the Opponent that the present Complaint is not maintainable as no first appeal is preferred and that the Complainant does not specify the date of the order. That the application dated 14/01/2010 under Right to Information cannot be transferred in terms of section 6(3) of the said Act. The Opponent denies specifically the contents of the Complaint/grounds. On merits it is the case of the Opponent that the Complainant is required to file separate application to each Government Department to seek information as regards the serial No. 3. That even otherwise the information was furnished to the Complainant vide reply dated 09/02/2010. According to the Opponent the Complaint is liable to be dismissed.

4. Heard the arguments. Representative of the Complainant argued on behalf of the Complainant and Adv. Smt. Harsha Naik argued on behalf of Opponent. Representative of the Complainant argued on similar lines as per the Memo of the Complaint.

Adv. Smt. H. Naik advanced elaborate arguments. According to her Complaint is not at all maintainable. She referred to the application dated 14/01/2010 and reply dated 09/02/2010 and submitted that the Complainant did not collect the information. According to her nothing is challenged in the present Complaint. Adv. for opponent submitted that procedure is by passed. Adv. for Opponent submitted that Section 6(3) is not attracted and referred in detail to the facts and section 6(3) in particular. According to her separate application is to be filed. According to her information was ready but the Complainant did not collect the same. Adv. for Opponent also submitted that Opponent has now started maintaining the File Movement Index in five annexures. According to her Complaint ought to be dismissed.

5. I have carefully gone through the records of the case and also considered the arguments advanced. The point that arises for my consideration is whether the Complainant is entitled for the relief prayed?

It is seen that the Complainant has sought certain information from the Public Information Officer Department of Information Technology. By letter dated 25/01/2010 the Public Information Officer Department of Information Technology transferred the Application under section 6(3) in respect of point at Sr. No.3 so as to give suitable reply, to the Opponent herein. It is seen that by letter dated 09/02/2010 the Opponent informed the Complainant to pay Rs. 2/- towards the charges under RTI Act and Collect the information as desired by him. It appears that the Complainant did not pay the amount nor collect the information. Instead he filed the complaint. This letter appears to be in time. The Complainant ought to have collected the information. It is to be noted here that whatever information is available is to be furnished.

6. The main contention of the Complainant is that no information is furnished to him. From the letter of the Opponent it becomes clear that Complainant was called to pay and collect the information. Therefore, the question of furnishing the information does not arise. It is the Complainant who did not collect the information. I have also perused another letter dated 09/02/2010, which is on record.

7. Adv. for the Opponent contends that Complaint is premature and not maintainable. I do agree with this contention.

8. Adv. for the opponent also contends that section 6(3) is not attracted section 6 reads as under:-

6 Request for obtaining information

"1. Any person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to -

(a) .....

(b) .....

specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(3) Where an application is made to a public authority requesting for an information, ---

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public Authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

9. Sub-section (1) of section 6 expressly requires that a person who desires to obtain information under the Act shall make a request alongwith the prescribed fee to the Public Information Officer of the concerned Public Authority specifying the particulars of the information. Sub-Section (3) carves out an exception to the requirement of sub-section (1). As per the same where a public authority to whom an application for information is made, finds that information demanded is not with it but is held by some other authority, it is duty bound to transfer the application for information to the concerned Authority under intimation to the applicant/information seeker. In my view sub section (3) of section (6) cannot be read in isolation, subsection (1) of section (6) being the main section. Intention of the legislature in enacting sub-section (3) is noble considering Right to Information Act is a people friendly Act. The pure objective behind enacting this provision is perhaps to lessen the travails of an information seeker, lest he is lost in the labyrinth of procedural technicalities.

From the above it is clear that application is to be made to the Public Information Officer of concerned Department.

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10. I have perused some of the rulings of the Central Information Commission as well as State Information Commission.

(i) In a case (Shri S. C. Agrawal V/s President's Secretariat Appeal Nos. CIC/WB/A/2008/01033 &1423 dated 05/06/2008 and 29/08/2008) the Commission observed that neither Department of Justice nor PMO can answer such a question of appellant by stating that the original letter stood transferred. Now, therefore, if Appellant Shri Agrawal seeks to know what action those Ministries have taken on the complaint of 21/01/2008, transferred to them by the Rashtrapati Bhawan, such a question must be addressed u/s 6(1) to the CPIO of the concerned public authority. In this case, this has not been done. The appeals being unsustainable were dismissed and directed the appellant to apply to the CPIO, Department of Justice for the purpose.

(ii) In A Gangopadhyaya V/s South East Central Railway, Raipur (Appln. No. CIC/OK/A/2006/00453 dated 02/01/2007) where appellant asked for 20 items of information each of which related to a different department/activity and the appellant was asked to put in separate applications for each of the items of information, the respondent's reply was up held by the Commission.

(iii) Veeresh Malik V/s Ministry of Petroleum Natural Gas New Delhi (case No. 261/iC/(A)2006 F Nos CIC/MA/A/2006/00580 dated 11/09/2006) where appellant submitted applications to the Ministry of Petroleum and Natural Gas and expect transfer of the same under section 6(3) to the concerned oil companies, the C.I.C. held it is not understandable why applicant expects to transfer the same to oil Companies when oil Companies themselves are public authorities under the Act.

(iv) in Abid Ulla Khan V/s Northern Railway (case No. 1320/IC/(A) 2007 dated 10/10/2007) it is observed that Appellant was well aware about the availability of information in the office of the CPIO in Lucknow, yet he chose to file his application to the Delhi Office, which has resulted in loss of time. It is further observed that information seeker should apply for information to the CPIO, who may be in possession of the requisite information.

State Information Commissions also have held similar view.

In Gurbaksh Singh v/s Public Information Officer, O/o Director Local bodies Punjab & another (2008), ID 469 (SIC Punjab) this aspect has been extensively dealt. The relevant observations are in para 7 and 8.

All these observations are applicable to the case before me. However, I need not refer to this aspect much in the factual backdrop of this case.

11. Adv. for the Opponent during the course of her arguments stated that they would maintain File Movement Index as per the said circular.

12. I have perused the circular dated 09/06/2009, which is on record. The same aims at speedy disposal of files and curtails delays and to some extent shows accountability. In any case there is no harm if this is implemented by the office of the Opponent herein.

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

13. In view of all the above, the following order is passed:-

**ORDER**

The Opponent to follow the said circular dated 09/06/2009 and maintain the File Movement Index as per the said circular and in five annexures I to V. No further intervention of this Commission is required. The Complaint is disposed off.

Pronounced in the Commission on this 3<sup>rd</sup> day of August, 2010.

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



