

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Complaint No. 48/SIC/2010

Shri Abdul Matin Carol,
102 Wing C Kancho Appt.,
Aquem- Alto,
Margao –Goa.

....

Complainant

V/s

The Public Information Officer,
Office of the Chief Secretary,
Porvorim.

....

Opponent

Complainant alongwith Adv. K. Mukherjee.

Opponent alongwith Adv. H. Naik.

ORDER

(04/08/2010)

The Complainant, Shri Abdul Matin Carol, has filed this Complaint praying that the Respondent may be directed to furnish requested information immediately or provide reason as to why it is not available and that Respondent be penalized under section 20 of the Right to Information Act.

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

That on 16/07/1999 the Goa State Legislative Assembly passed a Resolution to acquire 99,513 Sq.mts. of Comunidade land at Aquem at Sy. No. 52 PT Sheet No. 228 for the purpose of a burial ground for the Muslim Community of Margao.

That in a letter dated 10/02/2004, the Ex-Chief Minister, Luisinho Faleiro, stated inter alia “ A resolution to allot the land for the purpose of burial was unanimously passed on the 16th July, 1999 and accordingly the land Acquisition Proceedings for acquiring the land admeasuring 99,500 sq. mts situated at Aquem and located under survey No. 52 PT Sheet No. 228 was notified for acquisition.

That the Complainant, vide his letter dated 31/08/2009, sought certain information under Right to Information Act ('RTI' Act for short) from the Public Information Officer, office of the Chief Secretary Government Secretariat Panaji. The application was in respect of any correspondence or relevant document as regards to the acquisition or allotment of land to be used as burial ground (Kabrastan) for the Muslim population of Margao Goa. That again on 07/09/2009, the Complainant wrote a further letter to the information Officer office of Chief Secretary. This letter also is in relation to certain documents. That the Complainant did not receive any reply to his application till date. Hence the present Complaint.

3. Under Secretary (Revenue) by letter dated 30/03/2010 filed on 31/03/2010 informed that letters mentioned at serial No. 1,2,3 4 & 7 of the application dated 31/08/2009 have not been received in their office, however, letter at Sr. No. 5 has been received and forwarded to the Collector vide letter dated 08/10/2009. It was also informed that a letter has been received from Shri B. K. Hariprasad General Secretary of All India Congress Committee.

4. Respondent/Opponent has also filed a reply dated 28/07/2010 which is on record. It is the case of the Opponent/Respondent that the present Complaint is not maintainable as the reliefs prayed cannot be granted by this Commission as there is no Public Information officer in the Office of the Chief Secretary. That no First Appeal is filed. That the Complaint is infructuous. It is also the case of the Opponent/Respondent that there is no Public Information Officer in the office of Chief Secretary and as such relief prayed cannot be granted. ...3/-

5. Heard Adv. Mukherjee for Complainant/Appellant and Adv. Smt. Harsha Naik for Opponent/Respondent. Adv. Mukherjee produced an order of U.P. State Information Commission.

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

It is seen that Complainant by his application dated 31/08/2009 sought certain information. It appears that another letter was sent on 07/09/2009. The said letters were addressed to the Information Officer, office of the Chief Secretary Government Secretariat Porvorim-Goa. It appears that no reply was sent. Later on 11/02/2010 this Complaint was filed. The First reply of Under Secretary Revenue is dated 30/03/2010 sent on 31/03/2010 whereby he informed that letters at Sr. No. 1,2,3,4 and 7 have not been received and letter at Sr. No. 5 has been received and forwarded to the collector. There is also mention of the letter from B.M. Hariprasad. I have perused various letters from the record. Letter dated 05/08/2009 from Collector South Goa speaks of process of acquisition being lapsed. Letter from Ex-Chief Minister of Goa dated 10/02/2004. The same speaks of resolution passed and also of notifying for acquisition. The said letter also speaks of cancellation of the said land acquisition notification.

It is the case of the Opponent/Respondent as per reply dated 28/07/2010 that there is no PIO in the office of Chief Secretary. Strangely this was not informed earlier.

7. At the outset I must say that the object of the RTI Act is to ensure greater and more effective access to information under the control of Public authorities. Information is like an oxygen for a democratic Society. The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government. Information more than any other element, is of critical importance in a participatory democracy. The citizen/information seekers have, subject to a few exceptions, an overriding right to be given information on matters in possession of the State and public authorities covered by the Act.

Section 5 deals with designation of Public Information Officers. As per section 5(1) and (2) all administrative offices of public Authorities have to appoint Central Public Information Officers and Central Assistant Public information officers or State Public Information officers and State Assistant public Information officers as the case may be, within 100 days of the enactment of the Act in all administrative units at all levels viz sub-division or sub-district. As per the Act there must be a PIO in every administrative unit/office PIO is the key figure in the implementation of the Act.

8. It is the contention of the Adv. for the Complainant that Public Information Officer be ordered to be appointed and he relied on a decision of U.P. State Information Commission whereby Chief Secretary was directed to appoint PIO. Adv. for opponent/Respondent submits that there is no PIO to the office of Chief Secretary.

From these submissions it is clear that Public Information Officer is not appointed.

In the instant case application was of 31/08/2009 the same was not even replied. The reply is filed by under Secretary Revenue only on 30/03/2010. NO doubt there is a gross delay, however, since there is no Public Information Officer it would not be possible to invoke the penal provisions.

9. The next contention is about appointment of Public Information Officer. This has come during arguments. I have perused the ruling relied by the Advocate for the Complainant. I do agree with the contention of the Adv. for the Complainant. The Chief Officer plays a pivotal role as far as State Secretariat is concerned. I do agree that office of Chief Secretary should have PIO as well as First Appellate Authority. However in the factual matrix of this case I would only hope that office of Chief Secretary will on its own do the needful. It is surprising that the said organization has not set up a mechanism for dealing with Right to Information Act. At time when everybody wants that Right to Information Act should be there in its present form the office of Chief Secretary should not lag behind.

10. In view of all the above, I pass the following order:-

“The Complaint is disposed off”.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 04th day of August, 2010.

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

