

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No. 186/SCIC/2010

Shri Dominic D'Souza,
H. No. 315/4, Tropa Vaddo,
Sodiem, Siolim-Goa.

..... Complainant.

V/s.

Public Information Officer/
Secretary, Village Panchayat Sodiem,
Sodiem-Goa.

..... Opponent/Respondent.

Smt. Joana Mascarenhas e D'Souza, representative of the Complainant present.

Opponent in person.

ORDER **(16-08-2010)**

1. The Complainant, Shri Dominic D'Souza has, filed the present Complaint praying that the Opponent be directed to furnish the part of information required to the Complainant in terms of application dated 24/12/2009, that the Opponent be directed to pay appropriate amount of fine/penalty stipulated under section 20 of the Act and that disciplinary action may be taken on the Opponent.

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

That the Complainant, by application dated 24/12/2009 sought certain information under Right to Information Act 2005 ('RTI' Act for short) from the Opponent. That the Opponent furnished the part of the information. However, the Opponent failed to furnish part of the information within statutory period of time stipulated in the Right to Information Act. That the Complainant preferred an appeal before the Block Development Officer and the Appeal was disposed off. The Opponent were directed to furnish the information. That the Opponent refused to furnish the part of the information sought. Being aggrieved the Opponent has preferred the present Complaint on various grounds as set out in the Complaint.

3. The Opponent resists the Complaint and his say is on record. It is the case of the Opponent that Complainant requested for information vide his application dated 24/12/2009 and the Opponent furnished the required information vide letter dated 21/01/2010. That the available information was furnished within the statutory period of time. It is the case of the Opponent that thereafter the Complainant filed an appeal before the Block Development Officer, Bardez/First Appellate Authority. That the required information was furnished. However, the Complainant expressed need of additional information before the First Appellate Authority and accordingly additional information was provided to the Complainant by letter dated 04/03/2010 where opponent neither made delay in furnishing information nor refused to provide required information to the Complainant. That the Opponent neither malafidely denied nor provided incorrect, incomplete, misleading information. According to the Opponent the Complaint is liable to be dismissed.

4. Heard the Argument, Smt. Joana Mascarenhas e D'Souza argued as representative of the Complainant and Opponent argued in person. The representative of the Complainant has referred to the application as well as reply furnished. She next referred to the order of the First Appellate Authority. According to her information at query No. 3 has not been furnished. Opponent submitted whatever information was available has been furnished.

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 information is furnished and whether it was in time.

It is seen that the Complainant, vide his application dated 24/12/2009, sought certain information from the Opponent. The information consisted of certified copy and certain information. By reply dated 21/01/2010 the Opponent furnished the information. However, regarding point No. 3 it was mentioned that information

is not available. Being not satisfied the Complainant preferred the First Appeal before the First Appellate Authority. By order dated 17/02/2010 it was ordered that Respondent to hand over the information within 7 days. It is now the case of the Complainant that the Opponent failed to furnish part of the information sought for in page 2 at para 2 under section 2(f) of the definition of information of the Right to Information Act.

The information sought is as under:-

"3. under section 2(f) of the definition of information of the Right to Information Act, kindly furnish the information on whether the above subject and proposal on the investigation of the Religion of Domnic D'Souza is within the competence or beyond the Gram Sabha as per the new guidelines circulated to the Village Panchayat of Sodiem by the Block Development Officer under section 3(a) of the meetings of the Gram Sabha"

Answer furnished is as under:-

"3 Regarding point No. 3 of your letter, the information is not available."

6. It is to be noted here that under section 2(f) "Information" means any material in any form, including records, documents, e-mails opinions, advices, press-releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by Public Authority under any other law for the time being in force.

It is pertinent to note that the term 'record' for the purpose has been defined widely to include any document, manuscripts file etc. Under clause 2(j) "Right to Information" means the right to information accessible under this Act which is held by or under control of any public authority and powers under the Act include the

right to (a) inspect works, documents, records of any public authority (b) take notes, extracts or certified copies of documents or records (c) print outs, diskettes.....

It is now to be seen whether such a request can be granted. In view of what is mentioned above the information in the form held is to be provided. Public Information Officer is not required to create or compile the information on the demand of a requester merely, because some one has asked for it.

7. Coming to the information sought as mentioned herein above what the Complainant seeks is whether the above subject and proposal is within the competence or beyond the Gram Sabha as per the new guidelines circulated to the Village Panchayat Sodiem by the Block Development Officer.

The Complainant has sought 'opinion' of the Public Information Officer. It can also be termed as explanation on the query raised by him. The public Information Officer is however required to provide information as available in any form with his office rather than giving his personal opinion or explanation.

It is to be noted here that a combined reading of section 2(f) 2(i) and 2(j) of the Right to Information Act would show that a citizen is entitled for disclosure of information which is in material form and "information" and the right to seek do not include opinions, explanation etc. and as such request of the Complaint cannot be granted.

8. Coming to the aspect of delay. The Application was filed on 24/12/2009 and reply of the Opponent is dated 21/01/2010 and received on 22/01/2010. Considering this, the same is within time.

9. In view of all the above I pass the following order.

O R D E R

The Complaint is dismissed.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 16th day of August, 2010.

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

