

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No. 36/SCIC/2010

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

..... Complainant.

V/s.

Public Information Officer,
Directorate of Archiver & Archacology,
Panaji - Goa.

..... Opponent/Respondent.

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

Adv. Harsha Naik , for the Opponent in person.

ORDER **(20-08-2010)**

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 No. 1 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 his say is on record. It is the case of the Opponent that order is as per Right to information Act and that Complainant is not aggrieved. The Opponent admits about receipt of the request vide letter dated 25/01/2010. That vide letter dated 03/02/2010 the reply was sent to the Complainant and he was directed to pay the necessary costs but he failed to do so till date. The Opponent denies about non-action alleged by the Complainant. The Opponent specifically denies the grounds as mentioned in the Complaint. It is further the case of the Opponent that their office is maintaining two registers one is for inward and the other for despatch purpose. That the application filed by the Complainant is vague as file movement index is affixed to each file which is likely to be transferred from department to another, only if need arises and whatever available index of this department has been provided to the complainant on 03/02/2010. That the Opponent was asked to provide information in respect of point No.3 (Sr. No.3) only. According to the Complainant the complaint is liable to be dismissed.

4. Heard the arguments of the representative of the Complainant and the Adv. Smt. Harsha Naik for Opponent.

I have carefully gone through the records of the case and also considered the arguments advanced.

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 Technology transferred the application under section 6(3) in respect of point at Sr. No. 3 so as to give the suitable reply to the Opponent herein. By letter dated 03/02/2010 the Opponent herein sent the File Movement Index and requested the Opponent to pay. It appears that Complainant so far has not paid the amount.

5. It is the case of the Complainant as per the Complaint that information has five enclosures, which have not been enclosed. It is to be noted here that section 2(j) provides only information held by or under the control of any public authority. It, therefore, necessarily implies that information to which an information seeker is entitled can only be that which is available in the records of the public authority concerned.

In short the Opponent is obligated to give the information, which is existing with the Public Authority. Non-existing information need not be given.

In this factual backdrop this Complaint is not at all maintainable.

6. From the letter furnished to the Complainant it becomes clear that the File Movement Index as per the Circular of Chief Secretary is not maintained.

I have perused the said circular dated 09/06/2009 copy of 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.

7. During the course of the argument the Adv. for the Opponent submits that the Opponent shall maintain the F.M.I. as per the Circular of the Chief Secretary. The five annexures mentioned should be followed.

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

9. 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 same and in five annexures I to V. No further intervention of this Commission is required.

The Complaint is disposed off accordingly.

Pronounced in the Commission on this 20th day of August, 2010.

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

