

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 25/SCIC/2010.

Shri Kashinath Shetye,
R/o Bambino Bldg,
Alto Fondvem, Raibandar,
Tiswadi –Goa.

... Complainant.

V/s

1) The Public Information Office,
District and Session Court,
South Goa , Margao– Goa.

... Opponent .

Complainant in person.

Opponent in person.

ORDER
(26-08-2010)

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 may be granted. Quashing of form "A" and applicant can apply with his name and address and information required without any other information as per section 6(2) of the RTI Act 2005 and also quashing the Rules made by Hon'ble Chief Justice of Bombay High Court" The Goa, Daman & Diu and Dadra & Nagarhaveli District Court, Right to information Rules 2009" which overwrite the RTI Act 2005.

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

That the Complainant has filed an application dated 14/01/2010 and letter No. 1 (45)/2008/DIOT/RTI/2690 under Right to Information Act 2005('RTI' Act for short) by requesting the Public Information Officer, Department of Information Technology to issue information specified therein. That the Public Information Officer/Opponent failed to furnish the required information as per the application of the Complainant

and further instructed the Appellant to submit Form 'A' which was not enclosed with the letter". Being aggrieved the Complainant has filed the present Complaint on various grounds which are set out in Complaint.

3. The Opponent resists the Complaint and the reply is on record. It is the case of the Opponent that the application of the Complainant seeking information was transferred to the Opponent under section 6(3) of the Right to Information Act by the Public Information Officer, Department of Information & Technology, Government of Goa, Porvorim, for furnishing information on point no. 3 of the said Application. That the said application was examined and registered in the form 'D'. It was observed that there was no self addressed envelope bearing postal stamps equivalent to the rate prescribed for registered post with A/D acknowledgment due alongwith the application as required under Rule 4 of the Goa, Daman & Diu and Dadra Nagar Haveli District Courts, Right to Information Act, 2005 which is also made applicable to all Industrial & Labour Courts, Administrative Tribunal and all other subordinate courts in the State of Goa and Union Territories of Daman and Diu and Dadra & Nagar Haveli and falling under the Superintendence and control of High Court of Judicature at Bombay. That this was informed to the Complainant by letter dated 01/02/2010. That the Opponent did not deny the information or furnished incomplete information and that the Opponent followed the procedure framed under the Rules. That the application was received on 28/01/2010 and the complainant was informed by letter dated 01/02/2010 so there is no delay. It is the case of the Opponent that no appeal has been preferred and that no complaint lies and the same is liable to be dismissed. That none of the grounds set out are attracted. That the Complainant was asked to comply with procedural formalities as required under the rules to enable the Opponent to furnish required information . According to the Opponent Complaint is liable to be dismissed.

4. Heard the Arguments. The Complainant argued in person. Adv. Shri K. L. Bhagat argued on behalf of Opponent. Both sides advanced elaborate arguments.

The sum and substance of the arguments of the Complainant is that fees should be in accordance with Right to Information Act and that rules cannot overwrite the Act.

According to the Adv. for Opponents they have followed the rules as framed by the Hon'ble High Court.

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 prayed are to be granted or not?

It is seen that complainant filed an application dated 14/01/2010 seeking certain information under Right to Information Act from P.I.O. Department of Information Technology. It appears that Public Information Officer Department of Information Technology by letter dated 25/01/2010 transferred the said application to the Opponent herein under section 6(3) of the Right to Information Act for furnishing information on point No. 3 of the said Application. By letter dated 01/02/2010 the Opponent informed the Complainant that the application is not in form 'A' and there is no self addressed envelope bearing postal stamps equivalent to the rate prescribed for registered post with acknowledgement Due alongwith the application as required under Rule 4 of Goa Daman and Diu and Dadra & Nagar Haveli, Right to Information Act 2005, published in official Gazette dated 17/09/2009 series I, No. 25. The Complainant was informed to seek the information as per requirement of Rule 4 of the said Rules.

According to the Complainant Form A is not contemplated in the Right to Information Act.

6. I have perused the Goa, Daman and Diu and Dadra and Nagar Haveli District Courts Right to Information Rules 2009.

Chapter II speaks of procedure for application and its disposal Rule 4 lays down as under:-

...4/-

"4. A person who desires to obtain information under the Right to Information Act, 2005 shall make a requisition in a self signed application in form – A appended hereto to the Public Information Officer, accompanied by a fee of rupees ten by way of cash against cheque or money order payable to the Public authority or by affixing a court fee stamp of Rupees ten and a self addressed envelope bearing postal stamps equivalent to the rate prescribed for registered post with Acknowledgement due (R.P.A.D) alongwith the application."

The application of the Complainant was not considered, as the same was not in prescribed format as per rule 4 as framed by the Hon'ble High Court. The RTI Act has not prescribed any format for seeking information. No doubt a format prescribed may be for administrative convenience and rejection of an application on that ground is rather unheard when the RTI Act is meaningfully silent about it. It is to be noted here that RTI Act is people friendly and user friendly Act.

It is to be noted here that under section 2(e) "Competent Authority means-

- (i) the speaker in the case of the house of People or Legislative Assembly of a State or a Union Territory having such Assembly and Chairman in the case of the Council of States or Legislative Council of State;
- (ii) the Chief Justice of India in the case of Supreme Court;
- (iii) the Chief Justice of High Court in the case of High Court;
- (iv) the President or the Governor, as the case may be, in case of other Authorities established or constituted by or under the constitution.
- (v) The Administrator appointed under Article 239 of the Constitution;

Under section 28 of Right to Information Act the competent Authority is vested with powers to make rules to carry out the provisions of the Act particularly on matters, namely:-

- (i) the cost of medium or point cost price of the materials to be disseminated under sub-section (4) of the section 4;
- (ii) The fee payable under sub-section(1) of section 6;

- (iii) The fee payable under sub- section (1) of section 7; and
- (iv) Any other matter which is required to be or may be prescribed.

The Hon'ble chief Justice of the High court is the Competent Authority of the High Court and the competent authority has published the rules. No doubt RTI Act 2005 does not prescribe any format as such.

I do agree that the rules made under the Act must be construed consistently with the Act and no rule could be made which would override the provisions of the Act itself.

This Commission would request and urge Competent Authority that the same be reconsidered with a view to bring the same in full conformity with the spirit of RTI Act 2005.

In view of the above I pass the following order:-

“ No intervention of this Commission is required.

The Complaint is disposed off.”

Pronounced in the Commission on this 26th day of August, 2010.

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

