

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 397-SCIC-2010

Shri Savio Britto,
H.No.P/10,Portais –Reis-Magos,
Bardez-Goa.

... Complainant

V/s

Public Information Officer,
Village Panchayat Secretary,
Reis-Magos,
Bardez-Goa.

... Opponent

Complainant in person.

Opponent absent. His Adv. Yogesh Naik, present.

O R D E R
(04/10/2010)

1. This is an application filed by the Complainant praying (1) to direct the Opponent to furnish the reply for not appearing in person for hearing ; (ii) to hold the presence of the person appearing in disguise on behalf of the Opponent as null and void; (iii) to direct Public Information Officer to remain present and to disallow the appearance of an advocate.

2. It is the case of the Complainant that one person is appearing without filing vakalatnama. That the Complainant strongly objects the person appearing as a stranger claiming to be an advocate and no vakalatnama placed on record and that he has no right to appear and that his appearance be treated as null and void. That statements of advocate should be treated as null and void. That Public Information Officer has failed to remain present. That there is no provision to engage an advocate under Right to Information Act 2005. That the balance would tilt towards opponent if advocate is allowed to appear and hence the main objection. That Public Information Officer has shown total disrespect and disregard towards the Commission by failing to remain present. That copy is also forwarded to law Secretary.

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3. The Opponent did not file the reply as such. However Adv. Yogesh Naik advanced arguments.

4. Heard both sides and perused the records.

It is seen that matter was fixed for the first time on 11/06/2010. On this date both Complainant and Opponent were present and Opponent filed reply and matter was posted on 06/07/2010. On 06/07/2010 Complainant was present and opponent absent. However Adv. Yogesh Naik was present, matter was posted on 04/08/2010. On which date both Complainant and opponent were absent. Adv. Yogesh Naik was present. The matter was posted on 31/08/2010. On 31/08/2010 it was brought to the notice that no vakalatnama was filed hence notice was issued to the Opponent and on 16/09/2010 Opponent remained present. To-day i.e. on 04/10/2010 the vakaltnama is filed.

Whenever an advocate appears he must file a vakalatnama. Normally Commission or for that matter any court believes in good faith that vakalatnama is duly filed. In the instant case also the Commission thought vakalatnama is filed. But on 31/08/2010 when it was brought to the notice it was found vakalatnama is not on record. Adv. appearing must file vakalatnama. A lapse has also taken place on the part of the Commission in not checking properly that the vakalatnama is not filed. However hence forth vakalatnama must be filed or at least permission be obtained to file at a later date. In the instant case this has not been done and the Complainant is right in his contention. However since Right to Information Act is people friendly user friendly act due allowance in this regard is to be given to both the sides.

5. The next contention is regarding appearance of the Advocate. According to the Complainant advocate should not be allowed to appear and represent the Opponent.

It is to be noted here that Right to Information Act 2005 does not specifically mention about advocates representing Appellants or Respondents. However, at the same time does not debar the appearance of Advocates. Normally advocates are allowed to appear to the respective parties. I have seen from the various rulings that advocates do appear before Central Information Commission and also other state Information Commissions. Whether to engage Advocate or not is the choice of concerned party. I have perused some of the rulings of the Central Information Commission. It is observed that Right to Information Act is simple and no advocate is required. However, advocates are allowed and appearing before various Commissions.

The contention of the Complainant that no advocate be permitted cannot be accepted. Again the apprehension of the complainant that balance would tilt against the Opponent is baseless. In matters of Right to Information Act there is no scope for using any discretion because the mandate of Right to Information Act is to give information subject to section 8 and 9 of the Act. In my view the Complainant need not worry for that.

6. Coming to the prayers in the application. Prayer (i) and (ii) need not be granted as even if parties do not appear matters are to be decided on merits only. Public Information Officer should remain present whenever required.

7. With the above observations the application of the applicant is disposed off.

Pronounced in the Commission on this 4th day of October, 2010.

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

