

**GOA STATE INFORMATION COMMISSION
AT PANAJI - GOA**

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

Complaint No.538/SCIC/2010

Mr. Caetano Menino Pereira,
H.No. 71, Fuldem vaddo,
Nagoa Bardez –Goa.

... Complainant

V/s

The Chief Town Planner,
Town & Country Planning Department,
Dempo Towers,
2nd flr., Patto Plaza,
Panaji –Goa.

... Opponent.

Complainant absent. Representative of the Complainant Shri C. S. Barreto present.
Opponent absent. . Representative of the opponent present.

O R D E R
(21/03/2011)

1. The complainant, Shri Caetano Menino Pereira, has filed the present complaint praying that an inquiry be held in terms of section 18(2) of the Right to Information Act and that penalty be imposed on the said Chief Town Planner.

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

That the complainant lodged his Complaint dated 22/07/2010 with senior Town Planner, Town and Country Planning Department, Mapusa Goa and endorsed a copy of Complaint to the Chief Town Planner, Town and country Planning Department, Panaji –Goa regarding the regularization of the illegal house built by one Mrs. Catherina Fernandes. That by letter dated 31/07/2010 the Complainant sought certain information under Right to Information Act 2005('RTI' Act of short). That by letter dated 04/08/2010, the Chief Town Planner directed the Complainant to make the application under section 6(1) of the Right to Information Act. to the Public Information Officer appointed in the Town & Country Planning Department, Panaji for information under RTI Act. It is the case of the Complainant that he wrote to the said chief Town planner, vide his letter dated 09/08/2010 that he being First Appellate Authority it would have been prudent on his part to transfer the

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Complainant's application dated 31/07/2010 under section 6(3) of the RTI Act rather than directing the said complainant to make application under 6(1) to the concerned PIO when he is duty bound to do so under section 6(3) of the RTI Act. In short according to the complainant the opponent is duty bound to transfer the application. Hence the present complaint.

3. The case of the opponent is set out in his reply which is on record. It is the case of the opponent that the Chief Town Planner is neither Public Information Officer nor First Appellate authority. That the complainant's letter addressed to the Chief Town Planner dated 31/07/2010 made under section 6(1) of the Act has been replied to on 04/08/2010 wherein the Complainant was advised to address his application for information under section 6(1) to the PIO appointed under the RTI Act. It is further the case of the opponent that only PIO appointed under section 5 of the Act can transfer the application under section 6(3) of the Act and even FAA has no powers to transfer or give information under the provisions of the said Act. According to the Opponent the complaint is liable to be dismissed.

4. Heard the arguments. Shri C. X. Barreto representative of the complainant argued on behalf of the Complainant. He also filed written arguments. The opponent relied on the reply which is on record.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the representative of the complainant and also considered the reply of the opponent.

It is seen that, vide letter dated 31/07/2010 addressed to the opponent the Complainant sought certain information. However the opponent Chief Town Planner sent the same back to the Complainant stating the same is not maintainable and requested the complainant to make the application to the PIO Town and Country

Planning Department. It is the contention of the Appellant that his application ought to have been transferred under section 6(3). Whereas according to opponent under section 6(1) application should be made to Public Information Officer.

6. Sub-section(1) of section 6 expressly requires that a person who desires to obtain information under the Act shall make a request alongwith the prescribed fee to the Public Information Officer of the Concerned Public Authority specifying the particulars of the information Sub-section (3) carves out an exception to the requirement of sub-section (1). As per the same where a public authority to whom an application for information is made, finds that information demanded is not with it but is held by some other authority, it is duty bound to transfer the application for information to the concerned authority under intimation to the applicant/information seeker. In my view sub-section (3) of section (6) cannot be read in isolation, sub-section (1) of section (6) being the main section. Intention of the legislature in enacting sub-section (3) is noble considering Right to information Act is a people friendly Act. The pure objective behind this provision is perhaps to lessen the travails of an information seeker, lest he is lost in the labryint of procedural technicalities.

From the above it is clear that application is to be made to the Public Information officer of concerned Department and Public Information Officer has to transfer under section 6(3).

7. It is the case of the opponent that he is not the Public Information Officer nor the First Appellate Authority as can be seen from the order produced and which is on record. Technically speaking he is not obliged to transfer.

8. It is to be noted here that being Chief Town Planner he could direct the complainant to the PIO or could forward the application to the PIO so that complainant could have solved the problem of getting the information.

In order to avoid such things in future the Chief Town Planner and /or senior Town Planner should devise some mechanism so that people may not suffer. Such things may also create hurdles in the implementation of RTI Act. The Public Authority is bound to implement fully the RTI Act. The opponent and /or Senior Town Planner to notify the names of P.I.Os at prominent places in the office of the opponent and also to make proper arrangement for collection of RTI applications etc so that public in general may not suffer.

9. In view of the above and in view of the peculiar facts of the case the relief prayed cannot be granted. In case of any violation only PIO can be taken to task. In any case complainant to prefer the complaint or forward the same to the PIO. Hence, I pass the following order:-

O R D E R

The Opponent to comply the observations in para 8 herein above. The complainant on his part to forward the said application to the PIO. and the PIO to dispose the same as per law. With this observations the complaint is disposed off.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 21st day of March, 2011.

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

