

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

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

**Complaint No. 554/SIC/2010**

Shri Milagres Coutinho,  
H. No. 728, Fradilem, Navelim,  
Salcete - Goa

... Complainant.

V/s.

1) Mr. Peter Fernandes,  
State Public Information Officer,  
Executive Engineer, Division-IV,  
Electricity Department, Division-IV,  
Aquem, Margao – Goa

... Opponent No. 1.

2) Superintending Engineer,-II(N),  
First Appellate Authority,  
Electricity Department, Vidyut Bhavan,  
Panaji – Goa

... Opponent No. 2.

Adv. Ms. L. Coutinho for Complainant.  
Opponent No. 1 in person.

**O R D E R**  
(24.03.2011)

1. The Complainant, Shri Milagres Coutinho, has filed the present Complaint praying that the Opponent be directed to pay fine within the provisions provided under section 20 of the RTI Act; that the Opponent be directed to furnish the detailed information sought by the Complainant on the application dated 25.05.2010; that disciplinary action be taken against the Opponent under service rules applicable' that the Order passed by the First Appellate Authority be quashed and set aside and for costs.

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

That the Complainant, vide his application dated 25.05.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Opponent No. 1. That the Department directed a letter to the Complainant which is dated 27.05.2010 and the same was received on

29.05.2010. Being not satisfied with the same the Complainant preferred Appeal before First Appellate Authority(FAA)/Opponent No. 2. That after hearing the parties the FAA/Opponent No. 2 was pleased to pass the Order on 13.07.2010 stating that SPIO informed that information/reply made by him to the letter under RTI Act is correct. Being aggrieved by the same the Complainant has preferred the present Complaint on various grounds which are set out in the Complaint.

3. The Opponents resist the Complaint and the reply of Opponent No. 2 is on record. It is the case of Opponent No. 2 that the Complainant filed Appeal and after hearing both sides the Opponent passed the Order upholding the reply given by SPIO. It is the case of Opponent No. 2 that he disposed off the Appeal within time. Opponent No. 2 also prays that he may be deleted from the Complaint.

4. Heard Adv. L. Milagres on behalf of Complainant and Opponent No. 1 in person. Advocate for Complainant referred to the facts of the case in detail. According to her, application seeking information is dated 25.05.2010 and the reply of the Opponent is dated 27.05.2010. According to her Opponent cannot say that there is no provision. She also pointed that under section 20 of RTI Act reply should be within one month. She next referred to the Appeal preferred as well as Order of FAA. According to her the Order is liable to be set aside. Advocate for the Complainant submitted that Complaint be allowed and her request be granted. She also filed written submissions which are on record.

The Opponent No. 1 also referred to the facts of the case. According to him application is dated 25.05.2010 and they gave the reply on 27.05.2010. He submitted that the reply is in time. Opponent also submitted that there is no fixed time to reply. Besides, according to him what is sought does not come within the purview of information. Yet the same was 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 relief prayed is to be granted or not.

It is seen that the Complainant, vide application dated 25.05.2010 sought certain information. The information consists of a query as under:- "After submitting an application how long does it take to reply?" By reply dated 27.05.2010 the Opponent No. 1 informed the Complainant that there is no time frame fixed for replying to an application received in general correspondence and that the reply is furnished as early as possible depending upon the quantum of data/information to be reviewed and matter involved. It appears that the Complainant was not satisfied and hence he preferred the Appeal before FAA. By order dated 13.07.2010 the FAA observed **"On hearing both the parties it is opined that the question/information asked by the Appellant does not come under the definition of "information" under RTI Act, 2005 as the same is to be read in conjunction with "records". The reply given by the SPIO to the Appellant in fact confirms that he does not have any record thereof"**. Accordingly, the Appeal was disposed off.

Being aggrieved by the said order the Complainant has landed in this Commission.

6. It would not be out of place to mention here about the definition of information. Under section 2(f) "information" means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be assessed by a Public Authority under any other law for the time being in force.

Section 2(i) "record" includes -

(a) any documents, manuscript and file;

(b) any microfilm, microfiche and facsimile copy of a

document;

(c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

(d) any other material produced by a computer or any other device;

It is to be noted here that the term "record" for the purpose has been defined widely to include any documents, manuscript, file, etc. Under clause 2(j) "The Right to Information" means the right to information accessible under this Act which is held by or under control of any 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) take certified samples of material and (d) obtain information of printouts, diskettes, folders, papers, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.

7. Coming to the case at hand the Appellant sought information as under:-

"After submitting an Application how long does it take to reply?"

The reply is as under:-

"..... that there is no time frame fixed for replying to an application received in general correspondence. However the reply is furnished as early as possible depending upon the quantum of data/information to be reviewed and matter involved. This is issued as per the provisions of the 'Right to Information Act 2005'".

The query has been answered. Advocate for Complainant contends that no time limit is given.

8. It is to be noted here that section 2(j) provides only information held by or under the control of any Public Authority. It does not mean that an information seeker can solicit opinion from the P.I.O, of a Public Authority. The rule of law now crystallized by the various rulings of Central Information Commission as well as

State Information Commission is that the information held is to be provided and the Commission's jurisdiction can go no further than only directing that information in the form held be provided. Again it is held that R.T.I. Act does not cast on the Public Authority any obligation to answer queries.

In any case the reply mentioned above meets the requirement of the Complainant.

9. It appears from the records that a letter/application of 08.02.2010 was not replied for a long time which gave rise to the present Complaint. If the officers of Public Authority reply to the concerned in time, it not only adds to their promptness and efficiency but also prevents so many problems which consume time and energy of both. This Commission sincerely hopes that the Opponents in future deal with citizens applications in time and with promptness.

10. In view of all the above, I do not find any infirmity in the Order passed by the F.A.A. Regarding penalty the reply is furnished in time so the question of penalty does not arise. Hence, I pass the following Order:-

**ORDER**

The Complaint is dismissed.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 24<sup>th</sup> day of March, 2011.

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