

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No. 524/SCIC/2010**

Shri Shankar P. Parab,  
R/o Dangi colony,  
Alto, Dhuler Mapusa –Goa.

... Complainant

**V/s**

1) Dr. Sanjeev Dalvi,  
Medical Supdt./Dy. Director,(PIO),  
Dte. of Health Services,  
Asilo Hospital, Mapusa –Goa.

... Opponent No.1.

2) Shri Anil Kumar,  
Dy. Director (HIB),  
PIO, Dte. of Health Services,  
Special Cell, Panaji –Goa.

... Opponent No.2.

3) Dr. Rajnanda Dessai,  
Director,FAA,  
Dte. of Health Services,  
Vigilance Cell, Panaji –Goa.

... Opponent No.3.

Complainant in person.

Respondent No. 1 and 2 present.

Respondent No. 3 absent. His representative Smt. A. Signapurker.

Adv. H. Naik for opponent No.1 and 2 present.

**ORDER**  
(30/03/2011)

1. The Complainant, Shri Shankar P. Porob, has filed the present Complaint praying that the information at point No. 1, 5, 6, 8 9 and 10 be provided to him and to impose penalty to the concerned authority for harassing him for not providing the information.

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

That the complaint, vide an application dated 12/04/2010 sought certain information under Right to Information Act ('RTI' Act for short) from the Public Information Officer, Directorate of Health services, Panaji –Goa. That the said application was transferred by the Dy. Director (HIB) Public Information Officer (PIO). Directorate of Health Services/Opponent No.2 under section 6(3) to the Dy. Director Cum Superintendent, Asilo Hospital Mapusa Goa, vide letter 19/04/2010 to furnish information to the Complainant. That the said application was also transferred

by the Dy. Director (HIB) PIO, Directorate of Health services under section 6(3) to the under Secretary (Health) PIO, Public Health Department, secretariat, Porvorim –Goa vide letter dated 27/04/2010 to furnish information to the Complainant, on point Nos. 2,3, 4 and 7. That the Public Health Department provided the information to the complainant on point Nos. 2, 3, 4 and 7. That the application sent to opponent No. 1 was transferred by opponent NO. 1 to the PIO, Goa Public service Commission; to the PIO Directorate of Accounts, Panaji; PIO, Dy. Director of Health Services, Panaji –Goa and PIO, Public Health department Secretariat. It is the case of the complainant that the opponent NO. 1 has informed him that he has provided the information to point No. 9 by letter dated 18/05/2010, but the said information is incomplete. That opponent No. 1 further informed him that he cannot furnish the information to point No. 8 and 10 due to certain reasons as mentioned in the said letter dated 18/05/2010. That the G.P.S.C has stated that the information does not pertain to their commission and the application was returned to opponent No.1. That information regarding point No. 1 to 5 was supposed to be furnished by opponent NO. 1 and that opponent No. 1 failed to furnish the information in time. That information regarding point NO. 8, 9 and 10 is in public interest and public should know about the same. Being not satisfied the complainant preferred a first Appeal before FAA/Opponent No. 3 and that the opponent No. 3 did not follow the correct procedure of Appeal and misguided the complainant by transferring the appeal under section 6(3) to the Medical suptd./Dy Director to provide information. Being aggrieved the complainant has filed the present complaint.

3. The opponents resist the Complaint and the reply of the opponents is on record.

It is the case of Opponent No. 1 that the Complaint is not maintainable as the principle of natural justice has not been followed by opponent No. 3 also by the Complainant. That the opponent No. 1 was not issued any notice of first Appeal if any filed. On merits the opponent no. 1 admits of application received. The opponent No.

1 denies that he provided incomplete information at serial No. 9 to the complainant. The opponent No. 1 also denies that the information at point no. 1 and 5 was supposed to be furnished by opponent No. 1. Opponent No. 1 also states as to how he transferred the letter to various authorities etc and also states about letter being issued to Shri Krishna Ratul and also to Dr. Mallika Markandey requesting to give information at point No.8, 9 and 10 of the RTI Application. Opponent No.1 states that point No. 1 & 6 cannot be provided by him as he is not in possession of the said information. In short it is the case of the opponent No.1 that the complainant has been furnished all the information.

It is the case of the Opponent No.2 that the information sought by the complainant is not related to Health Intelligence Bureau (HIB). That the PIO of Directorate of Health Services/Opponent No. 2 made maximum efforts to make available to complainant. The efforts made are mentioned in para 3 (i) to (iv) of the reply.

It is the case of the opponent No.3 that the Complainant wrongly addressed the Appeal to the opponent NO. 3. That no complaint under section 18 lies against First Appellate Authority and that complaint should be necessarily against SPIO. That mandate of section 18 of the RTI Act does not in any way make provisions to complain against the FAA. It is the case of opponent No. 3 that seeking inquiry on any aspect is not covered under the RTI Act and this Commission has no jurisdiction to order such inquiry. That the opponent No. 3 transferred the appeal under section 6(3) in good faith. That this opponent is not the FAA in this case. According to the opponent No. 3 the complaint is liable to be dismissed.

4. Arguments were partly heard and matter was posted for further arguments. However, on 03/01/2011 the Complainant sent an application stating that information is furnished, however, they made delay to harass him. the Complainant states in the letter/application that if there is any rule and regulation to impose fine for harassment and delay then impose the same. He also states that he is with drawing the complaint since he got the information.

Adv. Smt. Harsha Naik and Adv. Shri a. Talauliker for opponent No. 1 and 3 state that since he is withdrawing the question of penalty etc does not arise.

Notice was issued and complainant was called. He stated that information is received but since there is delay the opponents should be penalized.

5. I am unable to agree with the advocates for the opponent. The Complainant wants to proceed with the matter in respect of delay. Heard all the sides on the aspect of delay. Accordingly to Adv. for Opponent No.1 and 3 there is no delay. Opponent No. 2 also states there is no delay and he explained the circumstances that took place.

6. Now it is to be seen whether there is delay in furnishing the information. It is seen that the request for information is dated 12/04/2010. It is seen that by letter dated 19/04/2010 the request was transferred to the opponent No. 1 by opponent No. 2. By letter dated 27/04/2010 the opponent No. 2 transferred the said request to the Under Secretary (Health), Public Information Officer, Public Health Department, Secretariat, Porvorim to furnish the information in respect of point No. 2, 3, 4 and 7 of the application to the party directly. By letter dated 05/05/2010 the Under Secretary (Health II) furnished the information in respect of point at Sr. No. 2, 3, 4 and 7. The Complainant admits that he received his information.

Opponent No. 1 by letter dated 23/04/2010 transferred the same to the PIO, Goa Public Service Commission for furnishing information on points NO. 1, 4, 5 & 7 and also to PIO, Directorate of Accounts to furnish information on point No. 2, 3 and 6. Opponent No. 1 also sent the application by letter dated 23/04/2010 to the PIO Dy. Director (HIB) Directorate of Health Services for furnishing information on point No. 2, 3, 4 and 7 and also to the PIO, Public Health Department for furnishing information on points No. 4 and 7 of application. By letter dated 18/05/2010 the opponent No. 1 furnished the information in respect of point No.8 and also informed the Complainant

that information in respect of point No. 8 and 10 cannot be provided in view of section 8(1)(e) 7(9) and 8(1)(j). This information was furnished in time considering the request which was received on 19/04/2010.

It is seen that information at Sr. No. 2, 3, 4 and 7 is furnished and information at Sr. No. 9 also furnished. The opponent No. 2 furnished the information i.e. 1,5 and 6 on 07/12/2010 and 08/12/2010. This information is beyond time. In any case it is seen that the request was being tossed around for a while. Apparently there is some delay in furnishing information by opponent No.2. However PIO should be given an opportunity to explain about the same in the factual matrix of the case.

7. There is some irregularity regarding First Appellate Authority. Opponent informed about opponent No. 3 when in fact opponent No. 3 was not FAA. PIO to be careful in future. In any case nothing much turns on the same.

8. In view of the above, since the information is furnished no intervention of this Commission is required. Since there is delay the opponent No. 2 is to be heard on the same. Hence I pass the following order:-

**ORDER**

Complaint is allowed. No intervention of this Commission is required as information is furnished.

Issue notice under section 20(1) of the RTI Act to Opponent No. 2/Public Information Officer to show cause why penalty action should not be taken against him for causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 29/04/2011. Public Information officer/opponent No.2 shall appear for hearing.

Further inquiry posted on 29/04/2011.

Pronounced in the Commission on this 30<sup>th</sup> day of March, 2011.

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

**Appeal No. 31/SCIC/2010**

Goa State Information Commission,  
Shrama Shakti Bhavan, Gr. Floor,  
Patto, Plaza, Panaji –Goa.

Dated: 06/04/2011.

To,  
1) Mr. Cyril Fernandes,  
Attorney to Vermon Fonseca,

- 405,B,Lokhandwala Complex  
"Symphony" Andhari , Mumbai.
- 2) The Public Information Officer,  
O/o Asst Engineer,  
Electricity Dept.,  
Vidyut Bhavan,  
Mapusa.
- 3) The First Appellate Authority,  
O/O Supdt. Engineer,Circle No. II (N),  
Vidyut Bhavan,  
Mapusa.

**Sub: Appeal No.31/SCIC/2010.**

Sir,

I am directed to forward herewith copy of the Order dated 31/03/2011 passed by the Commission in the above referred Appeal for your information and necessary action.

Yours faithfully,

(Pratap Singh Meena)  
Secretary

Encl: copy of Judgment/Order in 3 pages.