

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No. 588/SIC/2010

Shri Ganesh Chodankar,
Regional Employment Exchange,
4th Floor, Shrama Shakti Bhavan,
Patto Plaza,
Panaji - Goa

... Complainant.

V/s.

Public Information Officer,
Labour Department,
Secretariat,
Porvorim – Goa

... Opponent.

Complainant in person.
Opponent alongwith Adv. K. L. Bhagat.

O R D E R
(13.04.2011)

1. The Complainant, Ganesh G. Chodanker, has filed the present Complaint praying that information as sought be furnished; that information ought to have been provided free of cost and that penalty be imposed.

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

That the Complainant, vide his application dated 31.08.2010, sought certain information under Right to Information Act, 2005 ('R.T.I.' Act for short) from the Secretary (Labour). That the said request was transferred to the Public Information Officer (PIO), Labour Department by the Secretary, Labour. That in terms of section 4(2) clause (b) of sub-section (1) of R.T.I. Act the PIO has to provide the information suo motu to the public at regular intervals. That this was not done. That on 11.10.2010 the Complainant filed an appeal before First Appellate Authority. That the Action taken on the said application by the F.A.A. is not known. That on 04.11.2010 the Complainant received letter to collect the information by making payment of Rs.34/- with cashier, GAD and collect the information. That on receiving the letter the Complainant went to the Labour Department to collect the said

information, but they could not issue as the copies were not certified by the authority concerned. That on 16.11.2010 the Complainant collected the information after making the payment. That the information given is not proper as sought by him. That the same was received after 76 days hence the present Complaint.

3. The case of the Opponent is fully set out in the reply which is on record. It is the case of the Opponent that the Complainant sought information vide his application dated 31.08.2010. That as the information sought was available with the Commissioner, Labour & Employment, Panaji-Goa. Vide letter dated 02.09.2010 the Opponent transferred the said application to the said office. That the Commissioner of Labour & Employment vide his letter dated 25.10.2010 furnished the information in respect of the said application to the Opponent herein. That the Opponent vide letter dated 01.11.2010 informed the Complainant that the certified copies applied by him were ready and he may collect the same by depositing an amount of Rs.34/-. That the Complainant collected the said information on 16.11.2010. That the Opponent received the same from the Commissioner on 25.10.2010 and furnished the same to the Complainant within a time limit of 30 days from the date of receipt of the said information from the Office of Commissioner of Labour & Employment. That information has not been refused to the Complainant but on the contrary has been furnished to the Complainant within the statutory time limit. The Opponent denies that information furnished is fake and incomplete and there is delay of 76 days to furnish the same. It is further the case of the Opponent that the Opponent had to call the information from Commissioner of Labour and Employment and not by Labour Department and whatever information was received has been furnished to the Complainant. Regarding the delay the Opponent states that the Opponent transferred the application on 02.09.2011 i.e. within a period of 5 days as provided under R.T.I. Act. That thereafter Opponent received the information from the Commissioner on 28.10.2010 and immediately intimated the Complainant to collect the same on 01.11.2010 and the Complainant collected the same on 16.11.2010 and therefore there is no delay

as far as this Opponent is concerned. According to the Opponent the Complaint is liable to be dismissed.

4. Heard the Complainant and Adv. K. L. Bhagat for the Opponent. According to the Complainant PIO, Labour Commissioner failed to submit documents showing merger of Regional Employment Exchange and State Directorate of Craftsmen Training with the Office of Labour Commissioner and also failed to produce other orders.

According to Adv. K. L. Bhagat whatever information was available has been 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 information is furnished and whether the same is furnished in time.

It is seen that the Complainant by letter dated 31.08.2010 sought certain information from the PIO, Office of the Secretary (Labour), Government of Goa, Secretariat, Porvorim-Goa. The information consisted of 15 items from Sr. No. 1 to 15. The information sought is in the form of certain documents. It is seen that by letter dated 02.09.2010 the Under Secretary (Industries & Labour) transferred/forwarded the same to the Commissioner, Labour & Employment with request to furnish information in respect of Sr. No. 1 to 15 to the applicant directly within the stipulated time period as per rules in force. By letter dated 25.10.2010 the Commissioner, Labour & Employment sent the information to the Under Secretary, labour Department, Secretariat. By letter dated 01.11.2010 the Under Secretary/PIO (Labour) requested the Complainant to collect the documents after paying the required charges. The Complainant collected the information on 16.11.2010.

6. The main grievance of the Complaint is that he has not been furnished the information. I have perused the information furnished. Most of the information is

not available. No doubt under R.T.I. Act information that is available in the material form is to be furnished.

This Commission requested the Complainant to take the inspection. Accordingly, inspection was given and the Complainant took the inspection and satisfied himself about the same.

7. The information sought is about the department. That is, documents showing merger of Regional Exchange and State Directorate of Craftsmen Training - with the Office of Labour Commissioner, sanction order of post of Supervisor, about approval of combined seniority of LDCs, etc. Normally these things ought to have been there. However, the same is not available. If the contention is accepted that information cannot be furnished as the same is not traceable then it would be impossible to implement R.T.I. Act. However, it is also a fact that information that is not available cannot be furnished. No doubt records are to be well maintained. In any case as the information sought is not traceable, no obligation on the part of P.I.O. to disclose the same as the same cannot be furnished. R.T.I. Act can be invoked only for access to permissible information.

8. The Complainant contends that there is delay in the sense that he was not informed within the stipulated period. It is seen that the application is dated 31.08.2010. The information furnished by letter dated 25.10.2010. Apparently there is some delay. In any case the Public Information Officer should be given an opportunity to explain the same.

9. In view of all the above, I pass the following Order:-

ORDER

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

Issue notice under section 20(1) of the R.T.I. Act to the Opponent/PIO to show cause why penalty action should not be taken against him for causing delay in furnishing the information. The explanations, if any, should reach the Commission on or before 01.06.2011. Public Information Officer/Opponent shall appear for hearing.

Further inquiry posted on 01.06.2011 at 10:30 a.m.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 13th day of April, 2011.

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