

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No. 566/SCIC/2010

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

... Complainant.

1) Public Information Officer,
O/o Commissioner Labour & Employment,
2nd Floor, Shrama Shakti Bhavan,
Patto Plaza,
Panaji - Goa.

... Opponent No.1

2) Public Information Officer,
Employment Exchange,
4th Floor, Shrama Shakti Bhavan,
Patto Plaza,
Panaji - Goa

... Opponent No.2

Complainant in person.

Opponent present.

PIO, Employment Exchange present.

O R D E R

(13.04.2011)

1. The Complainant, Shri Ganesh Chodankar, has filed the present Complaint praying that information be provided to him as sought by him and that penalty be imposed on the Public Information Officer.

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

That by an application dated 30.08.2010, the Complainant sought certain information under Right to Information Act, 2005 ('RTI Act' for short) from the Opponent/Public Information Officer (PIO). That in terms of section 4(2) clause (b) of sub-section (1) of RTI Act the PIO has to provide the information suo motu to the public at regular intervals. That the PIO, Office of Labour Commissioner vide letter dated 17.09.2010 transferred the said application to

another PIO from the Regional Employment Exchange, Panaji directing him to provide the said information to the applicant. That this was against section 6(3) of RTI Act where PIO has to transfer the application within five days from the date of receipt of application. That PIO, Office of Labour Commissioner acted against the said clause in dealing the issue. That the PIO, Regional Employment Exchange vide letter dated 28.09.2010 under section 5(5) of RTI Act returned the said application in original back to the PIO, Office of Labour Commissioner with a remark that the matter does not pertain to his office as the point raised by the Department are of administrative nature, which are not dealt by him and that he has categorically pointed out that the Labour Commissioner being the head of Employment Exchange, is the overall dealing office and all the records must be with this office from where the administration is being controlled and information sought by the applicant should be with their office and should have been provided by the applicant to this office. That the PIO, Regional Employment Exchange further stated that the application of provisions of RTI Act for transferring is not appropriate and amounts to directing to create information. It is the case of the Complainant that by letter dated 19.10.2010 the PIO, Office of the Commissioner (Labour) provided the information which is not relevant to the point raised by the applicant and that there is delay of 49 days and that information regarding the same points is deliberately not provided and hence the present Complaint.

3. It is seen that at one stage PIO, Employment Exchange was sought to be included as party and the request was granted.

4. The Opponent resists the Complaint and the reply is on record. It is the case of the Opponent that the Complainant sought certain information from the Opponent inspite of there being a separate PIO appointed for Employment

Exchange. That as the desired information was not available with the PIO, Office of Commissioner, Labour & Employment, the same was transferred to Employment Exchange vide letter dated 17.09.2010 with a copy to the applicant. That the delay in transferring the application was due to the fact that concerned dealing hand was searching as to whether the information sought by the applicant is available in administration section of the Office of the Commissioner of Labour & Employment.

That since no information was available in the section the application was transferred in the Employment Exchange section on 17.09.2010. It is the case of the Opponent that the said records are not available in the office as the Employment Exchange was already delinked from the Office of the Commissioner, Labour, Panaji in the year 1991 having separate entity and all files were thereafter dealt separately by the Employment Exchange.

That as per the Act the PIO, Office of Commissioner, Labour & Employment cannot create the information and since no files are available in the Office of Commissioner, Labour & Employment, the said application was transferred to the Employment Exchange. Regarding delay, it is the case of the Opponent that entire information was relating to the Employment Exchange and the same was transferred to that office and that during intervening period the action was taken to satisfy the applicant by sending the application to different sections so that the applicant could be fully satisfied. In short, according to the Opponent there is no delay as such.

5. Heard the Complainant and the Opponent. According to the Complainant incomplete information was furnished and that there is delay in furnishing the same. According to the Opponent there is no delay as such and that they have

furnished the information which was available with them and that no part of information is false.

6. 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.

7. It is seen that the Complainant, vide application dated 30/08/2010, sought certain information from the Public Information Officer of the Commissioner, Labour and Employment. It appears that by letter dated 17/09/2010 Public information Officer and Assistant Labour Commissioner transferred the said application to Public Information Officer, Employment officer Regional Employment Exchange under section 6(3) of the RTI Act it appears that by letter dated 28/09/2010 the application in original was re-transferred to the opponent herein. It appears that by letter dated 19/10/2020 the information is furnished.

8. It was submitted that information furnished was incomplete Inspection was given. Complainant took the inspection and satisfied himself. It appears that whatever information was available has been furnished.

9. No doubt information is old. It is seen that same can be found from the documents submitted i.e. Notification mentioned in letter dated 23/12/2003 by Ex-Labour Commissioner admitted that office of ESIs, Employment Exchange, State Directorate of Craftsman Training, Industrial Tribunal and Employment Exchange, were never merged and that no approval of Government was

obtained at any time to adopt combined seniority list of LDC working in five offices. As per records some of the documents are not available. How and in what way is not explained. If this contention is accepted that information cannot be furnished as the same is not available then it would be impossible to implement Right to Information Act. However, it is also a fact that if information is not available the same cannot be furnished. It is to be noted here that it is obligatory for the Public Authority to maintain the record properly and duly catalogued and indexed so as to facilitate the Right to Information under Right to Information Act.

In any case it is not obligatory on the part of Public information Officer to disclose the same, as the same cannot be furnished.

10. It was next contended about delay. It is seen that application seeking information is dated 30/08/2010. It is seen that Public Information Officer/Opponent transferred the same under section 6(3). This was transferred bit late. This may be due to non-appreciation of the provisions of the Right to Information Act. According to opponent it was sent late as public Information Officer/dealing hand was searching the same. It is seen that Public Information Officer Regional Employment Exchange re-transferred by letter dated 28/09/2010 and information furnished is on 19/10/2010. If this date is considered then information is in time. However there is delay in transferring the application. In any case in view of the above, the same is liable to be condoned.

11. In view of the above, since information is furnished no intervention of this Commission is required. The delay of 19 days as observed above is liable to be condoned.

Hence I pass the following order:-

O R D E R

No intervention of this Commission is required since information is furnished. The Complaint is accordingly disposed off.

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