

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint NO.447/SCIC/2010

Mr. Gamelin Fernandes,
H.No.66/6, Pomburpa Arao,
Bardez –Goa.

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Complainant

V/s
The Public Information Officer,
Directorate of Animal Husbandry &
Veterinary Services,
Patto –Panaji –Goa.

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Opponent

Complainant absent. His Adv. R. Almeida present.

Opponent in person.

O R D E R
(13/04/2011)

1. The Complainant, Shri Gamelin Fernandes, has filed the present complaint praying to direct initiation of inquiry in the aforesaid subject matter; to direct the Respondent to furnish proper and accurate information as stated in the application dated 06/01/2010 and that action under section 20 be taken.

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

That the Complainant, vide an application dated 06/01/2010, sought certain information under Right to Information Act 2005 ('RTI' Act for short) from the Opponent/Public Information Officer (PIO). That the Complainant did not receive any information till date. That it appears that the opponent is evading furnishing the requested information for the reasons best known to the opponent. That the act of not furnishing the requested information tantamount to defiance of the very object and tenor of the Right to Information Act. That the Complainant believes that he has not been given information or access to information under RTI Act. That since information is not furnished the complainant preferred the present complaint.

3. The case of the opponent is set out in the reply, which is on record. It is the case of the Opponent that the documents sought by the applicant are not available

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at their office and the documents regarding the subsidy released was financed by Dena Bank Pomburpa. That the documents were submitted to financing institute during the course of releasing the subsidy and documents were at the bank for hypothecation. That it is learnt from the Bank that the loan has been cleared and the documents kept at Bank has been handed over to beneficiaries after clearing the loan against the unit financed by Bank. It is further the case of the opponent that whatever documents available at their office are already submitted to the applicant as per his request under Right to Information Act.

4. Heard the arguments. The learned Adv. Shri R. Almeida argued on behalf of the complainant and the opponent argued in person.

Adv. for Complainant referred to the facts of the case. According to him information is not furnished.

According to the Opponent file is not traceable and whatever information available is 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 his application dated 06/01/2010, sought certain information from the PIO. Directorate of Animal Husbandry and Veterinary Services, Panaji –Goa. It appears that no reply was given nor information was furnished. The Complainant on 26/05/2010 filed the present complaint which is dated 23/04/2010. By reply dated 30/08/2010 the opponent states that the documents sought by the applicant are not available at their office and documents regarding subsidy the documents were submitted to financing institute during the course of releasing the subsidy and documents were at the bank for hypothecation. By letter dated 19/03/2010 (27-10) the PIO furnished the information.

It appears that certain information was not available and as such the same could not be furnished. No doubt there is no obligation on the PIO to furnish the non-existent information. However, the PIO should inform the information seeker within the stipulated time. According to the opponent the file is not traceable.

6. As pointed above the file is not traceable. If this contention is accepted that information cannot be furnished as the same is not traceable then it would be impossible to implement the RTI Act. However it is also a fact that information that is not available cannot be furnished. No doubt records are to be well maintained. The Right to Information Act can be invoked only for access to permissible information.

In my view the higher authorities should hold proper inquiry and bring to book the delinquent officer/official responsible for missing of file.

7. The Complainant contends that there is delay in the sense that he was not informed within the stipulated period. Considering the application and the reply it appears that there is some delay. In any case the Public Information Officer should be given an opportunity to explain the same.

8. It is to be noted here that complainant ought to have preferred the appeal before First Appellate Authority. Complainant to see that in future in such a case appeal is to be preferred.

9. Coming to the prayers prayer (a) regarding inquiry can be granted. In my view Dy. Director Planning, Department of Animal Husbandry is requested to conduct the inquiry regarding the said missing file/documents. Prayer (b) cannot be granted in the factual backdrop of this case. Regarding prayer (c) opponent is to be heard on the same.

10. In view of all the above, I pass the following order:-

ORDER

The Complaint is allowed. The Dy. Director Planning Department of Animal Husbandry, Panaji is requested to conduct the inquiry regarding the said file/documents and to fix responsibility for misplacement of the said file/Information and initiate action against the delinquent Officer/Officers including lodging of FIR and/or suitably penalised as per law. The inquiry to be completed as early as possible preferably within 3 months.

Issue notice under section 20(1) of the Right to Information Act to the opponent/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 07/06/2011 Public Information Officer/opponent shall appear for hearing .

Further inquiry posted on 07 /06/2011 at 10.30 am.

Copy of the order be sent to the Dy. Director Planning Department of Animal Husbandry, Panaji –Goa.

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

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

