

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 544/SCIC/2010

Shri Jowett D'souza,
H. No. 139, Sernabatim,
Colva,
Salcete – Goa

...

Complainant

V/s

Public Information Officer,
Shri Allen D'Sa,
Superintendent of Police,
South District Headquarters,
Margao, Salcete – Goa

...

Opponent.

Complainant in person.
Adv. Mrs. Harsha Naik for the Opponent.

O R D E R
(10.01.2011)

1. The Complainant, Shri Jowett D'souza, has filed the present Complaint praying that the Opponent be directed to furnish information on the application dated 05.08.2010. That disciplinary action/proceedings be initiated against the Opponent for malafidely invoking section 8(1) (h) of the RTI Act and for imposing penalty against the Opponent.

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

That the Complainant had lodged a complaint on 21.07.2005 jointly addressed to the Superintendent of Police (South), Dy. Superintendent of Police, Margao, Maina Curtorim Police Station. That the same was registered as Cr. No. 52/05 registered at the Maina Curtorim Police Station on 10.08.2005 u/s. 465, 466, 467, 468 r/w. 120A, 34 of the IPC. That the investigations of the said Crime was dragged by the Investigating Officers for many years, i.e. five years under one pretext or the other. That the main delay was due to involvement of high ranking police officers, ICICI bank officials, RTO officers and others. That the Complainant started seeking information under Right To Information Act, 2005 ('RTI Act' for

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short) to follow up the investigations in the said Cr. No. 52/05 and applications were made in this regard by the Complainant on 30.07.2007 seeking documents and other queries which was denied by applying section 8(1) (h) of RTI Act. That thereafter Appeal was preferred. That inspite of Order of the Commission information was not furnished. That the Complainant filed a Complaint and heavy penalty was imposed on the then Superintendent of Police (South), Shri Shekhar Prabhudessai. That thereafter investigations of the said Cr. No. 52/05 was transferred to Crime Branch in October 2008 under the instructions of IGP, Kishen Kumar to the Superintendent of Police, Crime Branch, Dona Paula for further investigations. That the Complainant further sought information from the Crime Branch, Dona Paula but the same was denied under section 8(1) (h) and 8(1) (g) of RTI Act. That the investigation in the said Crime was completed and chargesheet was filed on 26.05.2010 before J.M.F.C. at Margao. That the Complainant thereafter sought certified copies of all annexures attached to the chargesheet filed before the J.M.F.C., Margao by application dated 05.08.2010. That the same was transferred by PIO, Crime Branch to the Opponent by letter dated 07.08.2010. It is the case of the Complainant that Opponent deliberately, malafidely and arbitrarily without applying his mind and to harass the Complainant denied once again the information under section 8(1) (h) of RTI Act inspite of knowing fully well that the Commission has passed several orders against the Opponent and his predecessor in the said crime. It is also the case of the Complainant that no chargesheet is furnished to him and that the information is false and hence the present Complaint.

3. It is seen that Opponent/Public Information Officer was served with the notice. However, on 16.11.2010 he remained absent. Again on 08.12.2010 and 21.12.2010 the Opponent remained absent. Complainant was heard and matter was posted for order on 29.12.2010. On 29.12.2010 the Opponent again remained absent. However, Adv. Smt. H. Naik appeared and filed the reply.

It is the case of the Opponent that the Complaint is not maintainable and the same is barred by the principle of res-judicata as the information in Crime No. 52/05 has already been furnished to the Complainant in toto vide earlier application under R.T.I. i.e. in the Appeal No. 86, 87 and 90 of 2008. The Opponent denies that he deliberately, malafidely without applying his mind has harassed the Complainant and denied the information under section 8(1) (h). That the Complainant has sought similar information earlier. In short, according to the Opponent information has been furnished to the Complainant.

4. Heard the Complainant. According to the Complainant chargesheet has not been given and the reply given is false.

5. I have carefully gone through the records of the case and also considered the arguments advanced. The point that arises for my consideration is whether the relief prayed is to be granted or not?

It is seen that, vide application dated 05.08.2010 the Complainant sought certain information from the Public Information Officer, Crime Branch, Dona Paula, Panaji. By letter dated 07.08.2010 the Public Information Officer transferred the same to Superintendent of Police, South Goa/Public Information Officer under section 6(3) of R.T.I. Act. By reply dated 01.09.2010 the Opponent furnished the information. This reply is in time. There is no question of delay as such.

According to the Complainant the information furnished is false and that no chargesheet is furnished to him.

6. The Complainant submits that the information furnished is incomplete and false. As per the reply of the Opponent the information furnished is correct and no part of it is false.

It is to be noted that purpose of the R.T.I. Act is per se to furnish information. Of course Complainant has a right to establish that information furnished to him is false, incorrect, misleading, etc. but the Complainant has to prove it by some evidence to counter Opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of R.T.I. Act would be defeated. It is pertinent to note that mandate of R.T.I. Act is to provide information – information correct to the core and it is for the Complainant to establish that what he has received is incorrect and incomplete. The approach of the commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the Complainant must be given an opportunity to substantiate that the information given to him is incorrect, false, etc. as provided in section 18(1) (e) of the R.T.I. Act.

7. In view of the above, the Complainant should be given an opportunity to prove that the information is incorrect, false, etc. Hence I pass the following order:

ORDER

The Complaint is allowed. The Opponent to furnish the information sought by the Complainant vide application dated 05.08.2010 within twenty days from the date of receipt of the Order.

The Appellant to prove that information furnished is false, incorrect, etc.

Further enquiry posted on 04.02.2011 at 10:30 a.m.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 10th day of January, 2011.

Sd/-
(M. S. Keny)
Chief Information Officer

