

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No. 537/SCIC/2010

Shri Andre Joao Fernandes,
C/o. Archanjela Fernandes,
Alto Desterio, Bogda,
Vasco -da-Gama ... Complainant.

V/s.

Shri Gopal A. Parsekar,
Public Information Officer,
Mormugao Municipal Council,
Vasco-da-Gama,
Goa ... Opponent.

Complainant absent.
Adv. H. Khilji for Opponent.

O R D E R
(27.06.2011)

1. The Complainant, Andre Joao Fernandes, has filed the present Complaint praying that the Opponent be directed to provide to the complainant correct, complete clear (not destroyed) information within 24 hours as the Opponent agreed that the information is kept ready; that the information may be provided free of charge as there is purposeful delay on the part of the Opponent; that penalty proceedings be initiated against the Opponent for not providing information even after the order of the First Appellate authority; that disciplinary proceedings also be recommended against the Opponent and the compensation to the extent of Rs.5000/- be given.

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

That the Complainant, vide his application dated 30.04.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (P.I.O.)/Opponent No. 1. That the information was delayed by the irrelevant correspondence. That the Opponent refused to allow

the Complainant to verify and examine the information sought before the payment although it is mentioned in the application. That being not satisfied the Complainant preferred the Appeal before the first Appellate Authority. That by order dated 31.08.2010 the Complainant was allowed to verify the information before making payment. That in pursuance of the said order the Opponent did not allow the Complainant to verify the documents which the Opponent agreed to have been kept ready. Being aggrieved the Complainant has filed the present Complaint.

3. The Opponent resists the Complaint and the reply is on record. It is the case of the opponent that the Complaint filed is not maintainable on facts as well as in law and the same has to be dismissed in limine. That the dispute involved in the present Complaint is entirely a false and fabricated Complaint and is made with ulterior and dishonest motives. That the Opponent has suppressed the material facts pertaining to the Complaint under reply. That the Complaint is devoid of material particulars required for complete adjudication of the controversy. That this Commission has no jurisdiction to entertain the present Complaint. On merits it is the case of the Opponent that application dated 30.04.2010 was received and that there was no delay in furnishing the information and that the application was not rejected. The Opponent denies that Opponent refused to allow the Complainant to verify and examine the information sought before the payment. That the information asked by the Complainant was ready and the Complainant was informed to make payment and to collect the copies of the same. That the said letter was received by the Complainant on 24.05.2010, however, the Complainant did not turn up to collect the copies of the same. That the Complainant was more interested in harassing the Opponent rather than collecting the copies as requested by him. That present Complaint is only to harass. That the Complainant preferred the appeal

and the same was allowed and the Appellate Authority permitted the Complainant to verify the information, however, the Complainant did not turn up. The Opponent denies that Opponent did not allow the Complainant to verify the documents. That the Complainant is not entitled for reliefs as claimed by him.

4. It is seen that matter was posted on 03.11.2010 however Complainant was absent. On subsequent hearings also Complainant was absent. On 17.01.2011 fresh notice was issued but the Complainant remained absent. Various opportunities were given to the Complainant but he remained absent. Hence I proceed to decide the matter on the basis of record.

Opponent was present. Later on he was represented by Advocate H. Khilji. I have heard him.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the Advocate for the Opponent. 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 30.04.2010 sought certain information from the Opponent. The information consisted of certain document i.e. certified copies and the points were 1 to 11. All are copies of documents. By letter dated 24.05.2010 the Complainant was called to collect the documents after making the payment. As per records according to the complainant he was not allowed to verify the documents but the version of the Opponent is that Complainant did not turn up. The Complainant thereafter approached the First Appellate Authority. By order dated 31.08.2010, the Complainant was permitted to verify the information and the information should be made available within 7 days from the date of order. By letter dated 06.09.2010 the Opponent called the Complainant to collect the information in pursuance of the order of First Appellate Authority. Here also according to the

Complainant he was not allowed whereas according to the Opponent Complainant did not turn up.

Normally the prime concern of an information seeker is to get information. Public Information Officer is supposed to furnish the information that is available with the Public Authority. In the instant case information consisted to copies of documents. The Complainant wanted to verify the documents before payment. It is to be noted that if at all he wanted to verify he should have sought inspection first and then asked for documents. In any case he was permitted to verify by First Appellate Authority. According to the Opponent the Complainant did not turn up. The Complainant has not substantiated the same by some cogent material to show that he visited the office and the Opponent did not permit to verify.

6. In the instant case reply dated 20.04.2010 is in time. The only thing is, the Complainant did not collect the information. Again letter dated 06.09.2010 is also in time as per the Order of F.A.A. There is no delay as such. In any case to my mind the order of the F.A.A. is clear and the same is to be complied by both, i.e. Complainant and Opponent. Opponent states that information was kept ready.

One of the prayers is to provide information free of charge. However, as observed above there is no delay as such. The instant case squarely falls under section 7(3). Under this section once a decision is made to provide information and if the information seeker is intimated to deposit the fees the period between the dispatch of such intimation letter and payment of fees will be excluded for the purpose of calculating the period of 30 days under sub-section (1) of section 7.

7. In any case the Complainant can visit the office of the Opponent, verify the documents, pay the required fees as per rules and collect the documents.

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

ORDER

The Complaint is partly allowed. The Opponent is hereby directed to allow the Complainant to verify the documents and then furnish the documents/information on payment of required charges.

The Complainant to visit the office of the Opponent within 15 days from the receipt of the copy of this order and verify the documents. Opponent to furnish information after verification and on payment of charges. The whole exercise to be completed within twenty (20) days from the date of receipt of the order.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 27th day of June, 2011.

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