

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Comp. 506/SIC/2010

Mrs. Joan Mascarenhas E D'Souza,
H.no.215/4, Tropa Vaddo,
Sodiem Siolim, Goa

... Complainant

V/s

Public Information Officer,
Asstt. Director of Transport (S),
South, Margao-Goa

...Opponent

Complainant in Person

Opponent present

ORDER
(28/06/2011)

1. The Complainant Smt. Joan Mascarenhas e D'Souza, has filed the present complaint praying that a thorough inquiry be conducted into the Complaint and necessary order be passed under section 18; that disciplinary action be initiated against the P.I.O./Opponent under section 20(2), that penalty be imposed on the P.I.O. for refusal to furnish information to the Complainant and that P.I.O./Opponent has failed in his obligation imposed upon him under section 4(1) (a) of the Act to maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act and that suitable directions be issued under section 25 (5) of the Act.

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

That the Complainant filed an application dated 10th May, 2010 seeking certain information under Right to Information Act, 2005 (R.T.I. Act for short) from the Public Information Officer (P.I.O.)/Opponent. That the P.I.O./Opponent vide his reply dated 09/06/2010 informed the Complainant that the

process of collecting information is in progress and the applicant will be intimated in due course of time. That till date the P.I.O./Opponent has filed/refused to provide information which is malafide and contrary to the provisions of the Act under section 7 (1) of the Act. Being aggrieved by the action in failing to furnish the required information to the complainant within the stipulated time, the complainant has filed the present complaint on various grounds as set out in the complaint.

3. The opponent resists that the complaint and his reply is on record. It is the case of the Opponent that the opponent was working as P.I.O. in the office of Registering Authority, Margao (South) when the application of the complainant was received. That the vehicles mentioned were originally registered in the office of Asst. Director of Transport, Vasco-da-Gama, and as such the original papers, files at the time of registration of the said vehicles were maintained by P.I.O. Vasco. That the opponent sought information from P.I.O. Vasco regarding the said Vehicles and was informed that the said vehicle were issued a No Objection Certificate for being registered/transferred at the Registering Authority office in Margao. That the Margao office has been computerized for storing the information but due to change of new usage of different software namely i.e N.I.C and recently at the instance of Central Government the Vahan and Sarthi which is being standarised throughout the country, the old information cannot be retrieved from the existing facility and therefore a reference was made to the monitoring cell at the main server at Panaji, for assistance, so that the information called by the applicant is made available. That the Opponent in the meantime sent a communication to the applicant dated 9/6/2010. That the P.I.O. came to know that the monitoring cell at the main server

is unable to retrieve the whole information for fear of destruction of the existing data which is stored in the new software which fact present P.I.O is well aware of. That the present P.I.O. should have followed the matter, however he made no attempts to follow up. That the opponent did not willfully neglected or refused or declined to supply the information but made all attempts to collect the said information but failed to receive the information. That there is no deliberate or intentional delay.

4. Heard the arguments of the Appellant and the Opponent and perused the record. It is seen that, vide application dated 10/05/2010 the Complainant sought certain information from the Opponent, By reply dated 9/6/2010, the Opponent replied stating that the process of collecting information is in progress and as soon as the same is collected will be intimated to the complainant in due course of time.

In the instant case the complainant points out that information is not the issue i.e whether it is furnished or not is the issue.

5. Section 3 of the R.T.I. Act defines the very purpose of the Act in a nutshell as under:-

“ subject to the provisions of this Act, all citizens shall have the right to information”

Though there is economy of words this section is perhaps the most important section of the R.T.I. Act. All citizens have the right to information.

Under section 6(1) any person who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the Official Language of the area in which the application is being made

accompanying such fee as may be prescribed to the P.I.O. specifying the particulars of the information sought by him or her. Under section 6(3) , P.I.O. shall transfer the application , if information is held by another public authority, or the subject matter of which is more closely connected with the functions of another Public Authority. This transfer has to be made as soon as practicable but in no case later than five days from the date of receipt of the application.

Another aspect is that R.T.I. Act in general is a time bound programme. The information is to be furnished within the time frame i.e 30 days from the date of receipt of the application.

6. Coming to the case at hand, the application /request seeking information was received on 10/05/2010. By letter dated 9/6/2010, the Opponent informed the complainant that the process of collecting information is in progress. In fact under R.T.I. Act P.I.O. is to provide the information available with him. He is not required to collect and compile the information on the request of information seeker nor he is expected to create fresh one. In case the information was not with the P.I.O./ the Opponent he should have transferred the application under section 6(3) of the R.T.I. Act. Hope P.I.O. will bear the same in mind in future in dealing with the application seeking information.

7. Another aspects is regarding records and section 4 as contended by the Complainant. I have also perused the reply filed and explanation/clarification given in para 4 and 6 of the reply.

The Purpose of the R.T.I. Act is not merely to provide information to the information seeker on demand but to create conditions whereby the citizen would have minimum occasion

to request for information. This type of situation is not impossible but can be created by a proactive disclosure of information by Public Authority. As per the scheme of the R.T.I Act Public Authorities have been cast upon with the responsibility to suo motu disseminate as much information about themselves as possible in a way by which Public can have easy access to it. Of course it is not a one time exercise but should be done at regular intervals and the information to be disseminated has to be upgraded. The Act casts a responsibility on the Public Authority of ensuring, streamlining of records and their maintenance. As per section 4 every Public Authority is required to maintain all its records. It is strange but true to note that the mechanism of suo motu disclosure is such that maximization of section 4 would result in minimization of recourse to section 6(1) of the R.T.I. Act and it will also save energy, time and resources of Public Authority.

It would not be an exaggeration if I say that Public Authority under R.T.I. Act should be like dictionary which provides meaning to everyone who refers it.

8. No doubt there is some delay. However Opponent has given explanation. The same cannot be construed as intentional or malafide. The complainant also agrees to that . In any case delay is liable to be condoned and is condoned. However P.I.O. should note that in future statutory obligations are to be complied in letter and spirit and time frame is properly maintained. Any notice to be given much before time and not on the last date.

9. Since according to the complainant issue is not of information, no intervention of this Commission is required. Hence I pass the following order.

ORDER

The Complaint is disposed off with the above observations.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 28th day of June, 2011.

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

