

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No. 50/SCIC/2011**

Mr. Lourenco Fernandes,  
R/o. H. No. 734,  
St. Agostinho, St. Cruz,  
Tiswadi - Goa

... Complainant.

V/s.

Mr. P. R. Pednekar,  
Secretary,  
V. P. St. Cruz,  
Tiswadi -Goa

... Opponent.

Adv. V. A. Kamat for the Complainant.  
Adv. P. R. Karpe for the Opponent.

**ORDER**  
**(08.07.2011)**

1. The Complainant, Shri Lourenco Fernandes, has filed the present Complaint praying that the Opponent be directed to disclose the requested information and that penalty be imposed on the Opponent for malafidely denying the Complainant's request for information.

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

That the Complainant vide application dated 25.02.2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Opponent. That on the same day the Complainant had made another written Complaint to the Opponent, regarding illegal construction of toilets by Prabhaker Ranakale and Manohar Ranakale, in the property bearing survey No. 26/1, Calapur, Tiswadi-Goa with a request to take necessary action under section 66 of the Goa Panchayati Raj Act. That despite the above application under R.T.I. Act and separate complaint under section 66 of G.P. R. Act, clearly mentioning the

names of the perpetrators of the illegal construction, the Opponent on 25.02.2011, refused to divulge information as requested in the application under R.T.I. Act on the specious plea that the name of the persons who are involved in the construction is not mentioned in the application under RTI Act. It is the case of the Complainant that firstly sufficient details were provided in the application under R.T.I. Act to enable the Opponent to give the Complainant the requested information and secondly in the Complaint filed the names of persons involved in the construction were clearly mentioned. According to the Complainant the Opponent has denied the Complainant access to the information only with malafide intention of not performing his statutory duty in order to shield the illegal construction carried out. Hence, the Complaint.

3. The Opponent resists the Complaint and the reply of the Opponent is on record. It is the case of the Opponent that the application seeking information was received. That the Opponent sent a letter dated 25.02.2011 stating that the Complainant was requested to mention the names of the persons who were involved in the construction. The said letter is duly served to the Complainant but till today the Complainant has not given the names of the persons who were involved in the illegal construction. That the Complainant is harassing the Opponent by filing frivolous applications under RTI Act which are without any substance. The Opponent denies that the Opponent denied the Complainant access to the information only with the malafide intention of not performing his statutory duty in order to shield the illegal construction carried out. That the delay, if any, is unintentional, not malafide and not persistent. That there is no enmity between the

Complainant and the Opponent. That the information sought by the Complainant is incomplete and Complaint deserves to be dismissed.

4. Heard the arguments. The learned Adv. Shri V. A. Kamat argued on behalf of the Complainant and the learned Adv. Shri P. R. Karpe argued on behalf of the Opponent.

According to the Advocate for the Complainant the application is not vague and whatever particulars required have to be furnished. He also submitted that there is delay in furnishing information.

During the course of his arguments Advocate for the Opponent submitted that application is not specific and that records are not kept as per survey numbers. According to him delay, if any, is not intentional nor malafide.

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

6. It is seen that the Complainant sought information vide application dated 24.02.2011. The same was received on the same day. By reply dated 25.02.2011 the Opponent requested the Complainant to mention the name of the person who is involved in the construction so as to verify the office records and provide the information called. It appears that Complainant did not furnish the details.

It is pertinent to note that the Complainant has enclosed the mundcarial plan but did not mention the names. It is further pertinent to

note here that on the same day, i.e. on 24.02.2011 the Complainant has filed a Complaint regarding illegal construction of toilets. The Complaint was under section 66 of G. P. R. Act. This Complaint mentions the name. Strangely, in the R.T.I. application the Complainant does not mention the names and when asked by letter does not care to furnish the same. The Complainant in para 1, 2, 3 and 4 has mentioned in detail about the other application.

Absolutely there is no doubt that Opponent should have perused properly the application, etc. However, it is also a fact that applications are received and the applications under R.T.I. Act go to PIO and the Complaint under section 66 of G.P.R. Act goes to the concerned officer as per their practice.

6. Normally, the primary concern of any information seeker is information and not harassment of any PIO or officer. It is to be noted in this case that the application is dated 24.02.2011 but in the R.T.I. application names are not mentioned. Secretary of Village Panchayat on his part sent reply to the Complainant and sent reply to the said Prabhaker Ranakale and Manohar Ranakale on the same day but failed to appreciate that it was the same survey number. Opponent too proceeded mechanically.

Again the Complainant did not wait for 30 days nor approach the First Appellate Authority, instead filed the present Complaint on 07.03.2011.

7. In any case, the Complainant to mention the names or the Opponent, if names are not furnished, to take the names from the said Complaint and furnish the information.

8. Regarding delay the reply was sent in time seeking names. In the factual backdrop of this case it cannot be said that there is intentional and malafide delay.

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

**ORDER**

The Complaint is allowed. The Opponent is hereby directed to furnish the information sought by the Complainant, vide his application dated 24.02.2011 within 20 days from the date of receipt of this Order.

The Complainant on his part to furnish the necessary particulars to PIO within 8 days from the receipt of this Order.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 08<sup>th</sup> day of July, 2011.

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