

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 160/SCIC/2010

Shri Sadanand D. Vaingankar,
304, Madhalawada, Harmal,
Pernem,
Goa - 403 524

... Complainant.

V/s.

1). Deemed Public Information Officer,
Assistant Engineer,
Sub Division-IV,
Pernem - Goa

... Opponent No. 1.

2) Deemed Public Information Officer,
Executive Engineer,
Division V,
P.W.D. (Building),
Patto, Panaji - Goa

... Opponent No. 2.

3) Public Information Officer,
Deputy Collector (Rev),
Collectorate, North Goa,
Panaji - Goa

... Opponent No. 3.

Complainant absent.

Shri Ashok Palkar, representative of Opponent No. 1.

Adv. K. L. Bhagat for Opponent No. 2.

Shri Estevam Dias, representative of Opponent No. 3.

ORDER
(03.08.2011)

1. The Complainant, Shri Sadanand D. Vaingankar, has filed the present Complaint praying that Opponent No. 1, 2 and 3 be directed to furnish the correct information; that Opponent No. 3 be directed to transfer point No. 6 of the application to the concerned appropriate authority; that Opponent No. 1, 2 and 3 be directed to pay fine as applicable and that they may be recommended for disciplinary action.

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

That the Complainant, vide application dated 21.12.2009 sought certain information under Right to Information Act, 2005 ('RTI Act' for short) from the Public Information Officer (PIO)/Dy. Collector (Revenue)/Opponent No.

3. That the Complainant received a letter dated 13.01.2010 from Opponent No. 3 mentioning about the transfer of application to Opponent No. 1. That the Complainant received information by letter dated 25.01.2010 from

Opponent No. 1 and copy of the same is marked to Opponent No. 2 and 3 by Opponent No. 1. It is the case of the Complainant that the information furnished is false, as it contradicts prima facie that the documents furnished by Opponent No. 2 during First Appeal No. 126/2009 before the First Appellate authority for P.W.D. under RTI Act at PWD office, Altinho, Panaji-Goa on 27.01.2010. In short, it is the case of the Complainant that information furnished is totally false. That Opponent No. 3 delayed the transfer of the application for which no reasons furnished. That as regards point No. 6 Opponent No. 3 did not transfer the application to concerned appropriate authority and hence the present Complaint.

3. Opponent resists the Complaint and the reply of Opponent No. 2 and 3 is on record. It is the case of Opponent No. 2 that the application dated 21.12.2009 of the Complainant was transferred to Opponent No. 2 by Opponent No. 3. That by letter dated 25.01.2010 the Opponent informed the Complainant that the information sought by the Complainant was not available in the office of Opponent No. 1. Opponent denies that the information furnished vide letter dated 25.01.2010 was false and that it contradicts, prima facie, that the documents furnished by the Opponent No. 2 in the First Appeal No. 126/2009 on 27.01.2010. It is the case of Opponent No. 2 that when Opponent No. 1 received letter dated 13.01.2010 from Opponent No. 3, at that point of time all the information in respect of 6 items sought by the Complainant were not available with the Opponent No. 1 and hence could not be furnished to the Complainant. Secondly, the information expeditiously relied on by the Complainant has been furnished to the Complainant by the Opponent No. 2. That from the perusal of the said Exhibit-D Colly, though it pertains to the office of Opponent No. 1, the same are of the year 1989. It can be that at that point of time it was available with the Opponent No. 1, it does not mean that it was available with Opponent No. 1 in January 2010. That on receipt of the said application of the Complainant, the Opponent No. 1 searched the records and found that the information sought by the Complainant were not available and accordingly the Complainant was informed. That the P.I.O. is bound to furnish only the information which is available with the Public Authority. With reference to contents of para 5, 6, 7 and 8, the Opponent No. 2 denies that Opponent No. 1 has furnished false information to the Complainant. That Exhibits-E Colly

have been furnished to the Complainant by the Director of Education (Administration) of the Education Department and whereas Exhibits-D Colly have been furnished to the Complainant by the Opponent No. 2 as the same were available with them. That the contents of the letter dated 25.01.2010 are very clear to suggest that the Opponent has informed the Complainant that information sought by him were not available with the Opponent No. 1, therefore, the question of any contradiction or false information does not arise at all. It is also the case of the Opponent No. 2 that till today the information sought by the Complainant is not available with the Opponent No. 1. According to the Opponent the Complainant is not entitled for any relief and that the Complaint be dismissed.

It is the case of Respondent No. 3 that the Complainant's application dated 21.12.2009 under RTI Act was transferred to Assistant Engineer, SD-IV-V (Revenue), Goa as the information sought by the Complaint pertains to the said authority. That there is no much delay in transferring the application. That the same was also transferred to P.W.D. for providing the required information. That the information at point No. 6 of the application does not come under the purview of section 2(f) of RTI Act. According to the Opponent No. 3 the Complaint is liable to be dismissed.

4. 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 by application dated 21.12.2009 the Complainant sought certain information from the P.I.O., Collector, North Goa, Panaji-Goa. By letter dated 13.01.2010 the Dy. Collector and P.I.O., Collectorate of North Goa transferred the said application to the Asst. Engineer, Sub-Division-IV, Division V, Pernem-Goa under section 6(3) of the R.T.I. Act as the information pertained to the said Department. By letter dated 25.01.2010 the Assistant Engineer-IV, Pernem-Goa furnished the information stating that no records are available in their office.

Considering the receipt of the application seeking information and the reply furnished the information furnished is in time.

5. The only grievance of the Complainant as per the records is that the information furnished is false, incorrect, etc. This is disputed by Adv. Shri

K. L. Bhagat for Opponent No. 2. According to him only available information is to be furnished and whatever information is furnished is correct as the records are not available.

It is pertinent to note here that the purpose of the RTI act is per se to furnish information. Of course the Complainant has a right to establish that the information furnished to him is false, incorrect, misleading, etc., but the Complainant has to prove it to counter the Opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of RTI Act would be defeated. It is further pertinent to note that mandate of RTI Act is to provide information – information correct to the core and it is for the Appellant to establish that what he has received is incorrect and false. 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 incomplete, false, etc. as provided in section 18(1) (e) of the RTI Act.

6. In view of the above, no intervention of this Commission is required as far as information is concerned. The Complainant should be given an opportunity to prove that the information is false, incorrect, etc. Hence, I pass the following Order:-

ORDER

The Complaint is partly allowed. No intervention of this Commission is required as far as information is concerned.

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

Further inquiry posted on 22.09.2011 at 10:30a.m.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 03rd day of August, 2011.

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

