

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Complaint No. 286/SIC/2010

Shri Kashinath Shetye,
R/o. Bambino Building,
Alto Fondvem, Ribandar,
Tiswadi – Goa

...Complainant

V/s

Public Information Officer,
Corporation of City of Panaji,
Panaji – Goa

... Opponent

Complainant in person.

Adv. Shri J. Ramaiyya for the Opponent.

ORDER
(04/08/2011)

1. The Complainant, Shri Kashinath Shetye, has filed the present Complaint praying that information as requested by the Complainant be furnished to him correctly, free of cost as per section 7(6) of the RTI Act; that penalty be imposed on the Public Information Officer as per law for denying the information to the Complainant; that compensation be granted for the detriment faced by the Complainant and that inspection of documents may be allowed as per Rules.

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

That the Complainant had filed an application dated 10.02.2010 under Right to Information Act, 2005 ('R.T.I. Act' for short) thereby requesting the Public Information Officer, Directorate of Municipal Administration, Panaji to issue information specified therein which was transferred under section 6(3) to the Chief Officer, SPIO/Opponent herein. That the PIO/Opponent failed to furnish the required information as per the application of the Complainant and further no inspection of information was allowed. That considering the said non-action on behalf of the Opponent of the RTI Act, and being aggrieved the Complainant has filed the present Complaint on the grounds as set out in the Complaint.

3. The case of the Opponent is fully set out in the reply which is on record. In short, it is the case of the Opponent that the Complaint is not maintainable in law and is based on complete misconstruction and misinterpretation of provisions of Right To Information Act, 2005. That the Complainant has not approached the appellate forum and has directly approached the Commission. That on 10.02.2010 the Complainant made an application seeking information and the said application was replied on 09.03.2010 and the Complainant was given the necessary information and clarification was sought whenever necessary. It is further the case of the Opponent that point No. 3, 4, 5, 7, 8, 9, 10, 11 and 12 is not information as contemplated under the RTI and is/or not applicable to this Opponent. That all the information sought for by the Complainant has been provided to him. That the Complainant has not made out any case under section 18 of RTI Act. That the Opponent has not acted in a malafide manner nor has given any misleading information or refused to furnish any information intentionally nor has it withheld any information available with it. That the Complainant has completely misconstrued the provisions of RTI Act, more particularly, section 18. In short, it is the case of the Opponent that Opponent made all efforts to furnish whatever he can with regard to the information sought. According to the opponent Complaint is liable to be dismissed.

4. Heard the arguments. The Complainant argued in person and Adv. J. Ramaiyya argued on behalf of Opponent.

The Complainant referred in detail to the facts of the case and submitted that whatever he asked was not answered and that information was not furnished nor inspection given.

During the course of his arguments Advocate for the Opponent submitted that whatever information was available has been furnished. He also submitted that if licence is given then it is legal. He also referred to the reply on record as well as the letter furnishing information. Regarding inspection, Advocate for Opponent admits that the same was not given. He also submitted that there is no delay as such. According to him Complaint is liable to be dismissed.

5. 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 the Complainant by application dated 10.02.2010 sought certain information. The application was addressed to the P.I.O., Directorate of Municipal Administration, Panaji-Goa with a request to transfer the application under section 6(3) of the R.T.I. Act. Normally the application ought to have been addressed to the concerned authority/P.I.O., Commissioner, Corporation of City of Panaji, Panaji-Goa. By letter dated 11.02.2010 the P.I.O., Directorate of Municipal Administration transferred the same to the Opponent herein. By reply dated 09.03.2010 the Opponent furnished the information. The copy of the reply is also sent to the Director of Municipal Administration.

I have perused the application as well as the reply. The Complainant does not mention about the reply dated 09.03.2010. Regarding points sought are of a different nature, such as documents regarding mobile legal and illegal towers and antennas. In any case P.I.O. to see regarding the same and furnish information. In case information is not there he should state so. To my mind the P.I.O. should be specific.

It is to be noted here that P.I.O. has to furnish only available information. Non-existent information need not be furnished R.T.I. Act can be invoked only for access to permissible information.

Complainant states that inspection has not been furnished. Apparently, it is so. The Opponent will have to give inspection of the relevant documents/records.

6. It was next contended about maintainability of the Complaint.

Normally in a factual backdrop of this case Complaint is not maintainable. It is held that information seeker cannot approach the Commission without approaching First Appellate Authority. In any case the Complaint is entertained. However, the Complainant should take note of the same in future.

7. Regarding prayers, prayer (i) cannot be granted as penalty is sent in time. Since there is no delay the question of penalty does not arise. So also compensation.

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

ORDER

The Complaint is partly allowed. The Opponent is hereby directed to furnish the available information to the Complainant as per his application dated 10.02.2010 within 20 days from the date of receipt of this Order.

The inspection be given on a mutually agreed date within 10 days from the date of receipt of this Order.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 04th day of August, 2011.

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

