

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Complaint No. 284/SIC/2010

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

...Complainant

V/s

Public Information Officer,
Executive Engineer Div. I,
P.W.D., Patto,
Panaji – Goa

... Opponent

Complainant in person.

Adv. K. L. Bhagat for Opponent.

ORDER
(18.08.2011)

1. The Complainant, Shri Kashinath Shetye, has filed the present Complaint praying that the information as requested by the Complainant be furnished to him correctly free of cost as per section 7(6) and as per circular and the annexure I to V; that penalty be imposed on the Public Information Officer as per law for denying the information to the Complainant; that compensation be granted as per the detriment faced by the Complainant for not getting the information and also for harassment for making him run from pillar to post and that inspection of documents 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 14.01.2010 under Right to Information Act, 2005 ('R.T.I. Act' for short), thereby requesting the PIO, Department of Information Technology to issue information specified therein, which was transferred as per section 7(3) of the RTI Act to the 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 being aggrieved by the said Order the Complainant preferred present Complaint on the various grounds as set out in the Complaint.

3. The Opponent resists the Complaint and the reply of the Opponent is on record. In short, it is the case of the Opponent that the present Complaint does not fall within the ambit of section 18 of the RTI Act and hence ought to be dismissed in limine. That the present Complaint is premature as the Complainant has not taken recourse of approaching the FAA and on this ground also the Complaint is to be dismissed. That the present case also does not fall within the ambit of transfer under section 6(3) as the Complainant cannot make an application to the PIO of one Department and request him to furnish the information pertaining to information or documents of other Government Departments. That from the said item No. 3 it is amply clear that the Complainant was aware that the said information was not available with the PIO of the Department of Information Technology and, therefore, the Complainant ought to have filed fresh and specific application to this PIO seeking the information at item No. 3. That it is not proper to file application of PIO of one Department making request therein to him to obtain information from all other Government Department and ought to transfer it to all other Government Department as there are rulings in this regard issued by the Information Department dated 15.07.2009 which are to be adhered to by all the Departments. On merits it is the case of the Opponent that only information at item No. 3 was transferred by the PIO, Department of Information Technology vide his letter dated 25.01.2010 to this Opponent. This Opponent by letter dated 09.03.2010 intimated the Complainant that the File Movement Index is maintained and further requested the Complainant to visit the office of the Opponent on any working day to inspect the records to ascertain the precise period of which the Applicant required information about the said Sr. No. 3. However, the Complainant has failed and has neglected to visit the office of the Opponent. That the application itself is vague as far as period of information was concerned. That the Opponent within the period of 30 days after the receipt of the said letter of Information Technology, Panaji requested the Complainant to visit the office of the Opponent. The Opponent also denies the grounds mentioned in the Complaint. According to the Opponent, Complaint is liable to be dismissed.

4. Heard the arguments and perused the records.

It is seen that the Complainant filed an application dated 14.01.2010 seeking certain information from the PIO, Department of Information and Technology. By letter dated 25.01.2010 the PIO, Department of Information and Technology transferred the application under section 6(3) in respect of point at Sr. No. 3 so as to give the suitable reply to the Opponent herein. That the said letter was received on 08.02.2010. That by letter dated 09.03.2010 the Executive Engineer, W.D. I, P.W.D., Panaji informed the Complainant that File Movement Index(F.M.I.) is maintained and can be inspected by him on any working day during office hours. It appears that the Complainant instead of taking inspection and information, filed the present Complaint.

5. It is the contention of the Complainant that Impugned Order is against R.T.I. Act. In fact there is no Order as such. On the contrary the Complainant was called to collect the information and take inspection. In any case unless information is received it is not possible to comment as to whether the F.M.I. is maintained or not. According to Advocate for Opponent the F.M.I. is maintained. In any case it is to be noted that a citizen can seek only information which is available with the Public Authority in material form. In short what is available is to be furnished.

6. Since Opponent has informed to take inspection, etc. Complainant should do so and also collect the information.

7. Regarding maintainability of the Complaint I do agree with Adv. Shri Bhagat when he contends that Complaint is not maintainable. However in the factual backdrop of this we need not touch this aspect.

8. Regarding penalty, the reply is in time considering the receipt of the request by the Opponent. Since reply is in time section 7(6) is not attracted. So also question of compensation does not arise.

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

ORDER

The Complaint is allowed partly and the Opponent is directed to furnish the information sought by the Complainant vide his application dated 14.01.2010 at point No. 3 (Sr. No. 3) within 30 days from the date of receipt of the Order.

The Opponent to give the inspection of documents/file on a mutually agreed date within 10 days from the date of receipt of the Order. The entire process to be completed within 30 days.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 18th day of August, 2011.

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

