

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Complaint No. 452/SIC/2010

Mr. Sadanand D. Vaingankar,  
304, Madhalawada, Harmal,  
Pernem – Goa

...Complainant.

V/s.

Public Information Officer,  
Harmal Panchakroshi Higher Secondary School,  
Harmal,  
Pernem – Goa

... Opponent.

Complainant absent.  
Opponent in person.

**ORDER**  
**(23.08.2011)**

1. The Complainant, Shri Sadanand D. Vaingankar, has filed the present Complaint praying that the Complaint be allowed and the Opponent be directed to furnish information; that the Opponent be directed to pay fine and that the Opponent be recommended for disciplinary action under the Service Rules applicable to him.

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

That the Complainant vide application dated 19.02.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Opponent. That the Complainant received letter dated 08.03.2010 from the Opponent mentioning that the information asked is not in his jurisdiction. That the reply given by the Opponent is improper as Opponent by letter dated 27.05.2010 furnished the information regarding Harmal Panchakroshi Shikshan Mandal by obtaining the same from the Secretary of Harmal Panchakroshi Shikshan Mandal to Shri Mahesh D. Vaingankar. Since no information is furnished the present Complaint is filed.

3. The Opponent by letter dated 08.03.2010 informed the Complainant that the information asked by him is not in his jurisdiction. Reply dated 22.09.2010 of the Opponent is on record. It is the case of Opponent that the Complainant was informed that information was not in the jurisdiction of PIO. That the information was once obtained from the

Secretary of Society and submitted to one Mahesh Vaingankar cannot be the ground for the Complainant to compel the PIO to obtain it from the Secretary and provide. That the Complainant was also informed about the pendency of Appeal. According to the Opponent the Appeal is disposed off stating that the Chairman of Society is not Public authority and that Headmaster is PIO for School only. According to the Opponent the Complaint is not maintainable.

4. It is seen that the Complainant remained absent for some hearings. However, on 03.06.2011 Complainant was present. On 15.07.2011 the Complainant was absent. Again on 23.08.2011 i.e. today, the Complainant is absent. Since the Complainant is absent I am disposing the Complaint as per the records. Heard the Opponent. He refers to the reply filed by him.

5. I have carefully gone through the records of the case. It is seen that the Complainant by application dated 19.02.2010 sought certain information from the Opponent/PIO, Principal, Harmal Panchakroshi Higher Secondary School. The information related to Harmal Panchakroshi Shikshan Mandal, Harmal and was regarding proceedings/minutes of Managing Committee, etc. and also copies of correspondence through which various resolutions/orders passed in the meetings, etc. By reply dated 08.03.2010 the Opponent informed that information asked is not in his jurisdiction.

According to the Opponent in First Appeal No. 33/2009 Sadanand D. Vaingankar *V/s.* PIO, Director of Accounts, Directorate of Education, PIO. Headmaster and Chairman Harmal Panchakroshi Shikshan Mandal it is decided that Harmal Panchakroshi Shikshan Mandal is not a Public Authority under R.T.I. Act.

6. I have perused the order. Incidentally, Appellant in that appeal is the Complainant before me. Since Opponent states that the information is not within his jurisdiction, the same cannot be furnished. The Appellant should have approached the Society and/or any other authority whereby he could get the said information.

It is pertinent to note section 6 of the RTI Act;\_

“6. Request for obtaining information.

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,

a) .....

b) .....

specifying the particulars of the information sought by him or her,

Provided that .....

.....

2. ....

3. where an application is made to a Public Authority requesting an information, --

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

The public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer;

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application."

6. Sub-section (1) of section 6 expressly requires that a person who desires to obtain information under the Act shall make a request alongwith the prescribed fee to the Public Information Officer of the concerned Public Authority specifying the particulars of the information. Sub-section (3) carves an exception to the requirement of sub-section (1). As per the same where a Public Authority, to whom an application for information is made, finds that information demanded is not with it but is held by some other authority, it is duty bound to transfer the application for information to the concerned Authority under intimation to the applicant/information seeker. In my view sub-section (3) of section 6 cannot be read in isolation, sub-section (1) of section 6 being the main

section. Intention of the Legislature appears to be good considering the R.T.I. Act is a people friendly Act. The pure objective behind enacting this provision is perhaps to lessen the travails of an information seeker, lest he is lost in the labyrinth of procedural technicalities.

From the above it is clear that application is to be made to the Public Information Officer of concerned Department.

7. I have perused some of the rulings of the Central Information Commission as well as State Information Commission.

(i) In a case (Shri S. C. Agrawal V/s President's Secretariat Appeal Nos. CIC/WB/A/2008/01033 & 1423 dated 05/06/2008 and 29/08/2008) the Commission observed that neither Department of Justice nor PMO can answer such a question of appellant by stating that the original letter stood transferred. Now, therefore, if Appellant Shri Agrawal seeks to know what action those Ministries have taken on the complaint of 21/01/2008, transferred to them by the Rashtrapati Bhawan, such a question must be addressed u/s 6(1) to the CPIO of the concerned public authority.

In this case, this has not been done. The appeals being unsustainable were dismissed and directed the appellant to apply to the CPIO, Department of Justice for the purpose.

(ii) Veeresh Malik V/s Ministry of Petroleum Natural Gas New Delhi (case No. 261/iC/(A)2006 F Nos CIC/MA/A/2006/00580 dated 11/09/2006) where appellant submitted applications to the Ministry of Petroleum and Natural Gas and expect transfer of the same under section 6(3) to the concerned oil companies, the C.I.C. held it is not understandable why applicant expects to transfer the same to oil Companies when oil Companies themselves are public authorities under the Act.

(iii) In Abid Ulla Khan V/s Northern Railway (case No. 1320/IC/(A) 2007 dated 10/10/2007) it is observed that Appellant was well aware about the availability of information in the office of the CPIO in Lucknow, yet he chose to file his application to the Delhi Office, which has resulted in loss of time. It is further observed that information seeker should apply for information to the CPIO, who may be in possession of the requisite information.

8. No doubt the Society/Shikshan Mandal may be running the said Higher Secondary School. However, it is not possible for PIO to collect and give as Complainant wants.

9. In view of this position it is not possible to direct the Opponent to furnish the information when information is not with the Opponent. Again non-existent information cannot be furnished. However, the Complainant can very well approach the proper authority to get the requisite information under the R.T.I. Act.

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

**ORDER**

The Complaint is hereby dismissed.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 23<sup>rd</sup> day of August, 2011.

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

GSIC/Complaint No. 107/SCIC/2010  
Goa State Information Commission  
Shrama Shakti Bhavan, Gr. Floor,  
Patto Plaza, Panaji-Goa

02.07.2010

To,

- 1) Mahesh Kamat,  
Shivnery Co-op, Housing Society,  
Comba,  
Margao – Goa
- 2) Deemed Public Information Officer,  
Legal Assistant,  
Kadamba Transport Corporation Ltd.,  
Paraiso De Goa Building,  
Alto Porvorim-Goa

Sub: Complaint No. 107/SCIC/2010.

Sir,

I am directed to forward herewith copy of the Order dated 29<sup>th</sup> June, 2010 passed by the Commission in the above referred Complaint for your information and necessary action.

Yours faithfully,

(Meena H. Naik Goltekar)  
Under Secretary-cum-Registrar

**Encl: As above.**

From: Maria Suzana Rebello,  
Stenographer Gr.I,  
Goa State Information Commission  
Shrama Shakti Bhavan, Gr. Floor,  
Patto Plaza, Panaji-Goa

06.12.2010

To,  
The Secretary,  
Goa State Information Commission,  
Shrama Shakti Bhavan, Gr. Floor,  
Patto Plaza,  
Panaji – Goa

**Sub: Joining Report.**

**Ref: Leave application dated 29.11.2010**

Sir,

After availing three days Earned Leave from 30.11.2010 to 02.12.2010 (suffix 03.12.2010, 04.12.2010, 05.12.2010 being Public Holiday, Saturday and Sunday respectively), I am reporting for work today, i.e. on 06.12.2010 (B.N.).

Yours faithfully,

(Maria Suzana Rebello)  
Stenographer Gr. I