

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Complaint No. 612/SCIC/2010

Shri Allan Faleiro,
H. No. 400, Toleband,
Loutolim,
Salcete – Goa

...Complainant

V/s

Public Information Officer,
Addl. Collector-I,
South Goa, Collectorate Bldg.,
Margao – Goa

... Opponent

Complainant in person.

Adv. Shri K. L. Bhagat for Opponent.

ORDER
(19/09/2011)

1. The Complainant, Shri Allan Faleiro, has filed the present Complaint praying that information be furnished to him and that penal action be taken against the Public Information Officer.

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

That the Complainant, vide his application dated 12.11.2010, sought certain information under Right to Information Act, 2005 ('RTI Act' for short) from the Public Information Officer (PIO)/Opponent. That no information has been given till date but by letter dated 25.11.2010, that is in connection with application for information dated 12.11.2010 the Opponent requested the Complainant to inspect relevant files and take the sought information when the Complainant had not requested inspection of any documents or files. That the Complainant by letter dated 02.12.2010 refused to inspect the file. That the Opponent should have invoked section 6(4) of the RTI Act and seek the assistance of the Collector to get the required information as the information pertains to the actions and decisions of the Collector, South Goa. Being aggrieved the Complainant has filed the present 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 information sought by the

Complainant being voluminous, the PIO with a bonafide intention to furnish the information to the Complainant, vide his letter dated 25.11.2010, requested the Complainant to attend his office and inspect the relevant files/records available in his office and quote the relevant documents required and collect the same after payment of necessary fees. That the documents sought being voluminous, the PIO had to carry out thorough search for the records which would have led to disproportionate diversion of the resources of the concerned Public Authority and thus would attract section 7(9) of the RTI Act. That the Complainant, however, refused to inspect the records and intimated the same to the PIO vide his letter dated 02.12.2010. That the PIO by letter dated 20.12.2010 informed the Complainant to attend his office on 04.01.2011 during office hours and collect information in respect of item Nos. 1, 9 and 11 by making payment of necessary fees. That the Complainant failed to collect the information in respect of items No. 1, 9 and 11. That the PIO vide his said letter dated 20.12.2010 informed the Complainant that the information sought by the Complainant in respect of item Nos. 2 to 8 was not applicable to his office and further advised the Complainant to seek the said information from the concerned department/Authority. That the information in respect of items No. 2 to 8 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 requires him to furnish the information pertaining to information or documents of other Government Department. That the Complainant failed to collect the information and preferred the Appeal before the First Appellate Authority. That in pursuance of the order of F.A.A. the PIO/Opponent transferred the request of the Complainant in respect of item Nos. 2 to 6 to the Town Planner, Town and Country Planning Department, Panaji, Goa under intimation to the Complainant. In short the Complainant received the information in respect of item No. 7 to 11 from the Office of PIO. The Respondent also states about section 6(3) and 5(4) in the reply and also to the preliminary reply filed by the Opponent. It is the case of the Opponent that information available with the Public Authority of the Office of the Collector has been furnished and the other information being held by the other authorities could not be furnished and if the records are not available there is no obligation on the part of the Public Authority to provide any information. It is further the case of the Opponent that the information

sought his is more or less interrogative and also of a nature which is wanting the Complainant to justify and explain the process which is not provided under the RTI Act. That there was no intention on the part of the PIO to hide any information from the Complainant and, therefore, he was offered opportunity to inspect the records. According to the Opponent the Complaint is dismissed.

I have also perused the preliminary reply which is on record.

4. Heard the Complainant and the Adv. Shri K. L. Bhagat for the Opponent.

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 sought certain information from the Opponent vide letter dated 12.11.2010. The information consists of 11 items, i.e. Sr. No. 1 to 11. By letter dated 25.11.2010 the PIO/Opponent called the Complainant to inspect the file which request was turned down by letter dated 01.12.2010 on the ground that information sought was not specific. It is to be noted here that inspection was not sought. By letter dated 20.12.2010 the Dy. Collector (Revenue) informed that information at Sr. No. 2, to 8 are not applicable to their office and to approach/apply the concerned authority. In case of Sr. No. 1, 9 and 11 the Complainant was called to collect the same. By letter dated 05.01.2011 the Dy. Collector (Revenue) requested the Complainant to collect the information after payment of Rs. 182/- as fees for certified copies. It appears that the Complainant filed the Appeal before the First Appellate Authority and by Order dated 18.10.2011 the F.A.A. directed to refer the application under section 6(3) to the respective Department/Authority. It is seen that by letter dated 19.10.2011 Deputy Collector (Revenue) requested the Complainant to collect the information from Sr. No. 7 to 11 and in respect of information from Sr. No. 2 to 6 the application was transferred to Chief Town Planner, Town and Country Planning Department, Panaji under section 6(3) of RTI Act. The information in respect of point No. 7 to 11 was ultimately collected by the Complainant on 31.01.2011.

5. Perusal of the information sought pertains to the action as well as decisions taken by the Collector, South Goa, with regard to the development of plots for housing project under 20 Point Programme at Verna and Loutolim. The information at Sr. No. 7 to 11 is furnished and information at Sr. No. 2 to 6 has been transferred to Town Planning, Panaji. There is no mention of item at Sr. No. 1 though the Complainant was called to collect information at Sr. No. 1, 9 and 11. From the records it appears that the PIO, Town Planning, Panaji has not said anything so far.

During the course of his arguments Complainant states that the information is with the Office of the Collector. If information at point No. 1 is with the Office of Collector then others also should be there.

In any case to my mind the matter that the items at Sr. No. 1 to 6 of the Complainant's application dated 12.11.2010 should be sent back to the Opponent to see properly and furnish the information to the Complainant. Regarding Sr. No. 6 whether Town Planning Department is aware or not is not known. In case the information is not available then the same be sent to the concerned authority under section 6(3) with intimation to the Complainant and within the time frame as specified by the RTI Act.

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

ORDER

The Complaint is partly allowed. The application dated 12.11.2010 is referred back to the Opponent to furnish information in respect of point No. 1 to 6 within 20 days from the date of receipt of this Order.

In case the information is not available then only the same be sent to the concerned authority under section 6(3) of the RTI Act with intimation to the Complainant and within the time frame as specified by the RTI Act.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 19th day of September, 2011.

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

