

**GOA STATE INFORMATION COMMISSION**  
**AT PANAJI**

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

Complaint No. 608/SCIC/2010

Shri Eusebio Braganza,  
H.No.477, Dongrim,  
Navelim,  
Salcete-Goa .

...Complainant

**V/s**

1) The Public Information Officer,  
Department of Personnel,  
Government of Goa,  
Secretariat, Porvorim-Goa

...Opponent No.1

2) Public Information Officer(Deemed),  
The Additional Director of Vigilance,  
Serra Building,  
Altinho, Panaji-Goa.

.... Opponent No.2

Complainant in person  
Shri Naik rep. For Opponent No.1  
Opponent No. 2 present

**ORDER**  
**(15-09-2011)**

1. The Complainant , Shri Eusebio Braganza, has filed the present complaint praying that the Opponent be directed to provide the complainant the information sought under application dated 14/09/2010 that the Opponent be directed to pay the complainant the penalty of Rs. 250/- per day and that disciplinary proceedings be initiated.

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

That the complainant, vide application dated 14/09/2010, sought certain information under Right to Information Act (R.T.I. Act for short) from the Public Information Officer (P.I.O.)/Opponent No.1. That the opponent No.1 transferred the said application to opponent no.2 by letter dated 27/09/2010. That the opponent No.2 transferred the said application to Opponent No.1 by letter dated 13/10/2010 That thereafter Opponent No.1 re-transferred the said application to Opponent No.2 by letter dated 19/10/2010. Being

aggrieved by the denial of the information the complainant has filed the present complaint on various grounds as set out in the complaint.

3. The Opponents resists the complaint and their replies are on record. It is the case of the Opponent no.1 that vide letter dated 27/09/2010, the Opponent no.1 transferred the letter of the Complainant to the additional Director Vigilance under section 6(i) of the R.T.I. Act requesting to furnish the requisite information to the party, since the subject matter pertains to the Directorate of Vigilance. That vide letter dated 13/10/2010 the Addl. Director of Vigilance returned the Application of the Complainant to this department under section 6(3) wherein it is informed that the applicant has sought the information under R.T.I. regarding the CCS (CCA) Rules 1965 which is stated to be also applicable to the under Secretary (Personnel II). That vide letter dated 19/10/2010 the Opponent no.1 retransferred the letter of the complainant to the Opponent No.2 under section 6(3) of the R.T.I. Act. Since as per rules of business, the matters of CCS and CCA rules and matters of CCS (Conduct) Rules are allotted to the Department of Vigilance.

It is the case of the Opponent No.2 that the Opponent No.2 did not deny the information, however, it is wrong on the part of the Opponent No.1 to transfer the complainants. application dated 14/09/2010 to the Opponent No.2 under section 6(1) of the R.T.I. Act. That the information sought is prescribed in the CCS(CCA) Rules 1965 and that the same are applicable to Opponent No.1 and therefore the Opponent no.1 was bound to furnish the information. It is the case of the Opponent No.2 that as per Rules of Business the matters of CCS (CCA) Rules and matters of CCS (Conduct) Rules are allotted to the Department of Vigilance. However this does not absolve the Opponent No.1 in denying the information sought by the Complainant with him. It is the case of the Opponent

that CCS, (CCA) Rules and CCS(Conduct) Rules are part and parcel of service rules which are very much applicable to the Department of personnel. Moreover the Government vide circular No.5/4/8/99-VIG dated 11/10/99 has made it imperative that every employee is aware of these Rules and it is, therefore expected that the Under Secretary in the Department of personnel who is also the P.I.O. should be aware of both these rules as the Department of personnel is more closely connected with both these Rules in their day to day functioning. According to the Opponent no.2 the complaint is liable to be dismissed.

4. Heard the Complainant and the Opponent no.2 and perused the records.

It is seen that by application dated 14/09/2010 the complainant sought certain information from the Opponent No.1 By letter dated 27/09/2010 the Under Secretary Personal II transferred the same to Opponent No.2 under Section 6(2) of the R.T.I. Act. By letter dated 13/10/2010 the Opponent No.2 transferred the same under section 6(3) to the same Under Secretary (Personal II). By letter dated 19/10/2010 the Under Secretary (personal -I) retransferred the same to Opponent No.2 under section 6(3) of the R.T.I. Act. However no reply as such was furnished within 30 days either by Opponent No.1 or Opponent No.2. Strongly it appears information is both with Opponent No.1 and also with Opponent No 2 . This is a serious omission and violation of the spirit of the R.T.I. Act the request is being tossed around and no serious efforts is made to respond to the request.

5. Section 6 reads as under;-

“ 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 along with the prescribed fee to the public Information Officer of the concerned Public Authority Specifying the particulars of the information. Sub-section (3) carves out 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 bounds 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. The 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.

The Opponent No.1 should furnish the information if the same is available with it. If not Opponent No.1 should state clearly that the information is not available with it and then only transfer the request within 5 days to the concerned authority under intimation to the complainant.

7. Coming to the aspect of delay, No doubt much time has elapsed since filing the application. Naturally there is delay. However in the factual matrix of this case it would not be proper for the Commission to pinpoint on a particular authority and as such is condoned. However it is made clear to the parties that they should strictly adhere to the Statutory period as prescribed by the R.T.I. Act.

8. In view of all the above I pass the following order:-

**ORDER**

Complaint is allowed and the Opponent No.1 is hereby directed to furnish the available information to the complainant vide his application dated 14/09/2010, within 30 days from the receipt of this order and report compliance.

In case information is not available with the Opponent No.1 then the Opponent No.1 to state so clearly and then transfer the same under section 6 (3) of the R.T.I. Act.

All this to be completed within 30 days.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 15<sup>th</sup> day of September, 2011.

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