

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No. 10/SIC/2011

Mrs. Severina P. Fernandes,
Alias Joanita Fernandes,
H. No. 1392/A Bldg.,
Mazilwado, Benaulim,
Salcete – Goa

... Complainant.

V/s

Public Information Officer,
Shri Y. B. Tavade,
Additional Collector-II,
Collectorate South Bldg.,
Margao, Salcete – Goa

... Opponent.

Adv. A. Dessai for Complainant.
Opponent in person.

O R D E R

(27.09.2011)

1. The Complainant, Smt. Severina P. Fernandes alias Joanita Fernandes, has filed the present Complaint praying that the Opponent be directed to provide the information sought by application dated 02.12.2010 in respect of Electoral Photo Identity Card of Athar Ali and Shabana Khatum. That Opponent be directed to compensate for the loss and other detriments suffered for prosecuting his application before the Opponent/Public Information Officer and before this Commission; that Opponent be punished under section 20 of RTI Act for not supplying the information in time and that the Vigilance inquiry be directed.

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

That the Complainant, vide application dated 02.12.2010 sought certain information under Right To Information Act, 2005 ('RTI Act' for short) from the Public Information Officer (PIO)/Opponent. That the PIO neither provided the information nor informed anything about the disposal of the application dated 02.12.2010 under RTI Act within the stipulated time frame of 30 days. That some fraud has been committed in connection with the issuance of Electoral Photo Identity Card to the said Athar Ali and his wife Shabana Khatum on the same address as that of the Complainant's residence; based on

false, fabricated and forged documents including voter's form, ration card and such other documents connected to the issue of Electoral Photo Identity Card. That the Opponent has intentionally and malafidely denied and has not provided the information sought by her under RTI Act, 2005 hence the present 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 liable to be dismissed as no First Appeal is preferred. As per the Memorandum of Additional Collector-II dated 08.12.2010 the Opponent forwarded the same to the ERO for 32-Benaulim Constituency. That vide notification No. 429/Goa/2008 (1) dated 19.11.2010 of Secretary to Election Commission of India, the Dy. Director of Panchayat is appointed as the new ARO. That the delay of not providing the information was not intentional on the part of ERO. That when memorandum dated 17.02.2011 was issued to the Respondent directing the ERO to supply the information to the Appellant within two days, that the said information was provided to the Appellant by letter dated 16.02.2011. That as per the letter dated 15.02.2011 addressed to the Dy. Director of Panchayat clearly shows that the said information is allowed and is to be obtained from the previous AERO. That since the information is already received by the Opponent, Complaint does not survive. That since allegations were made the Additional Collector-II requested the Complainant to appear in the office to verify the documents and take further necessary action on 08.03.2011 at 11:00a.m. Further, by letter dated 04.03.2011 the Appellant did not appear on the ground that the matter is sub judice before Hon'ble State Information Commission. In short, it is the case of the Opponent that documents are already submitted to the Complainant, i.e. the information is already supplied. It is further the case of the Opponent that the Complainant was called on 08.03.2011 in order to conduct inquiry into the allegations; however she did not attend the same. That no ground has been made for claiming compensation. That since information is already furnished question of penalty, etc. does not arise. In short, according to the Opponent Complaint is liable to be dismissed.

4. Heard the arguments. The learned Adv. A. Dessai argued on behalf of the Complainant and the Opponent argued in person.

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 filed the application seeking information on 01.12.2010. The same was received on 02.12.2010. By letter dated 08.12.2010 the PIO/Addl. Collector transferred the said application to Dy. Director of Panchayat/EROS for 32-Benaulim Assembly Constituency with intimation to the Complainant. By Memorandum dated 17.02.2011 the PIO/Addl. Collector-II reminded the ERO of 32-Benaulim Assembly Constituency, Margao Goa. By letter dated 21.02.2011 the Dy. Director of Panchayats informed the Opponent herein that information is furnished to the Complainant by letter dated 16.02.2011. I have also perused the copy of the letter dated 15.02.2011 sent by Asst. Electoral Registration Officer 32-Benaulim Assembly Constituency to Dy. Director of Panchayat.

During the course of the arguments the Opponent submits that information is furnished. Complainant on his part admits that the information is furnished.

5. According to Advocate Shri A. Dessai there is delay in furnishing information. Apparently it is so. The request is 02.12.2010 and information is furnished by letter dated 16.02.2011 as can be seen from the records.

It is seen that Opponent herein is not responsible for delay. He transferred the Application under Section 6(3) on 08.02.2010. The other Officers involved are Dy. Director of Panchayat and Asst. Electoral Registration Officer. The Opponent has done his duty of sending the request to the concerned Officer. There is delay on the part of other officers for which PIO cannot be penalized. No doubt delay occurred due to inaction on the part of other officers and as such there is no sense in prosecuting the Opponent as single defaulter. However this Commission would like to caution all concerned to be alert and vigilant in dealing with RTI requests as the said requests are to be treated within a particular time frame. Hope all the concerned shall bear the same in mind.

6. In view of all the above, since information is furnished no intervention of this Commission is required. Hence, I pass the following Order:-

ORDER

No intervention of this Commission is required as information is furnished. The Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 27th day of September, 2011.

Sd/-
(M. S. Keny)
State Information Commission