

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No. 545/SCIC/2010

Mrs. Samira R. Gauns,
Off. 9, Tara Commercial Complex,
Sankahalim – Goa

... Complainant.

V/s.

Mr. A. J. Bhonsale,
Public Information Officer,
W.D. XXIII, P.W.D.,
Bicholim – Goa

... Opponent.

Complainant in person.
Opponent in person.

O R D E R
(22.06.2011)

1. The Complainant, Smt. Samira R. Gauns, has filed the present Complaint praying that Complaint be allowed and Opponent be directed to furnish correct information sought by the Complainant vide application dated 28.01.2010 and 25.07.2010; that penalty be imposed on the Opponent and that direction be given to the appropriate authority to take disciplinary action against the Opponent.

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

That the Complainant filed an application under section 6 of Right To Information Act on 28.01.2010 and 25.07.2010 seeking certain information about the details of leave of one Shri Chandrakant S. Poriencar, who is working as Junior Engineer in the same Department. That Opponent vide his letter dated 16.02.2010 and 20.08.2010 knowingly issued false and misleading information. Being aggrieved the Complainant has filed the present Complaint on various grounds as set out in the Complaint.

3. The Opponent resist the Complaint and the reply is on record. It is the case of the Respondent/Opponent that said Shri Chandrakant S. Porienkar, Junior Engineer, is attached to Sub Division –I, Works Division XXIII, P.W.D. Sanqueelim, Goa. That in exercise of the delegated powers, the application for casual leave, restricted holiday and compensatory holiday of the said Shri Porienkar are sanctioned by the Assistant Engineer, S.D.-I, W.D. XXIII, Sanqueelim and the applications for earned leave of the Staff attached to Sub Division Offices are considered and sanctioned by the Opponent. That the Opponent was on earned leave w.e.f. 27.01.2010 to 05.02.1010 and the Executive Engineer, W.D.-II, P.W.D., Panaji was holding additional charge of W.D. XXIII, Bicholim. That it is clear from the endorsements made in the application dated 28.10.2010, the Staff attached to W.D.XXIII without placing the said application before Executive Engineer W.D.II Panaji, re-directed the said application in original dated 28.01.2010 to the Complainant/applicant with relevant details of leave availed by said Shri Porienkar. That the request of applicant was disposed within time and information was provided to the Complainant in bonafide belief that the details of leave incorporated in the said endorsement as correct by letter dated 16.02.2010. It is the case of the Opponent that the Complainant by another application dated 25.07.2010 addressed to the Opponent had sought information regarding leave and attendance of said Shri Porienkar, Junior Engineer. That this request was disposed and provided point-wise information within time vide letter dated 18.08.2010. That the Assistant Engineer vide letter dated 09.08.2010 had requested the Applicant/Complainant to attend the office and verify the records. That as per section 7(3) of the RTI Act it was decided to provide information on payment of further fee representing the cost of providing information and, therefore, the Applicant by letter dated 18.08.2010 was intimated to pay Rs.104/- towards Xerox copy charges. That information was furnished fully and

within prescribed time limit. However, an inadvertent error by Division/Sub-Division office to include the leave (half day casual leave) on 17.12.2009 was also rectified when reply was furnished on 18.08.2010 to the Applicant/Complaint. That the said Shri Porienkar in addition to his duties was entrusted the election duty as Booth Level Officer for both Parliamentary elections as well as State Assembly elections and for this purpose his services were placed at the disposal of AERO and Joint Mamlatdar-II, Bicholim as and when requisitioned and besides the said Shri Porienkar was required to perform census duties as and when such duties assigned by the Mamlatdar, Bicholim. It is further the case of the Opponent that whatever information provided to the Applicant/Complainant were as per records maintained at S.D.I, W.D.XXIII, Sanquelim. That whenever Shri Porienkar performed election duties his services were under direct control of Joint Mamlatdar-II, Bicholim. That Shri Porienkar while on election duty was under the disciplinary control of the Election Commission of India. That there has been no malafide action of intentionally supplying wrong or incomplete information to the Applicant/Complainant. That the Applicant/Complainant was also given full access to the documents concerned. That no case has been made out of misleading or incorrect information deliberately furnished by the Opponent. According to the Opponent the Complaint is liable to be dismissed.

4. Heard the Complainant as well as Adv. Smt. N. Narvekar for Opponent/Respondent.

According to the Complainant information is furnished. However, the same is incorrect, false and misleading.

During the course of her arguments Adv. Smt. N. Narvekar submitted that information has been furnished in time and the information that was available

has been furnished. According to her correct information has been furnished and that no part of the information is false.

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 information is furnished and consequently whether the same is furnished in time.

There is no dispute that application was received and information was furnished. Complainant on her part states that she has received the information. The Complainant also states that information has been received in time so there is no dispute about this aspect. The only grievance of the Complainant is that information that is furnished is false and misleading. This is disputed by the Advocate for the Respondent/Opponent. According to Advocate for the Opponent the information furnished is correct.

6. It is to be noted here that purpose of the RTI Act is per se to furnish information. Of course Complainant has a right to establish that information furnished to her is false, incorrect, misleading, etc. But the Complainant has to prove it to counter Opponent's claim. The information seeker must feel that she got the true and correct information otherwise purpose of RTI Act would be defeated. It is pertinent to note that the mandate of RTI Act is to provide information – information correct to the core and it is for the Complainant to establish that what she has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind I am of the opinion that the Complainant must be given an opportunity to substantiate her claim that the information given to her is incorrect, false, misleading, etc. as provided in section 18(1) (e) of the RTI Act.

7. In view of the above, since information is furnished no intervention of this Commission is required. The Complainant should be given an opportunity to prove that the information is incorrect, false, misleading, etc. Hence, I pass the following Order:-

ORDER

Complaint is partly allowed. No intervention of this Commission is required as information is furnished.

The Complainant to prove that information furnished is false, incorrect, misleading, etc.

Further enquiry posted on 02.08.2011 at 10:30 a.m.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 22nd day of June, 2011.

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