

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 622/SIC/2010

Mr. Domingos Felicio Dias,
C/o Mr. Francisco A. Soares,
House No. 1015, 1st Bairro,
Near St. Cruz Post Office,
St-Cruz, Tiswadi-Goa

...Complainant

V/s.

The Public Information Officer,
& Village panchayat Secretary,
V.P. St Cruz,
St-Cruz, Tiswadi-Goa

... Opponent

Complainant absent. His representative C. S. Barreto present.
Opponent P.I.O. present.

ORDER
(27/10/2011)

1. The Complainant, Shri Domingo Felicio Dias, has filed the present complaint praying that the Public Information Officer/opponent be directed to immediately furnish certified copy of said resolution and that the penalty be imposed on the opponent.

2. It is the case of the complainant that the complainant vide application dated 24/11/2010 sought certain information under Right to Information Act 2005 ('R.T.I.' Act for short) from the Public Information Officer (P.I.O.)/opponent. That the opponent failed to furnish the information though 30 days have passed. That in the past also the P.I.O./Opponent is in the habit of creating problems/nuisance in rendering the information sought for, from the village panchayat St. Cruz. Since the information is not furnished, the complainant has preferred the present complaint.

3. The opponent resists the complaint and the reply of the opponent is on record. In short, it is the case of the opponent that the application seeking the information was received. However, the opponent denies that though 30 days have lapsed since the said letter have been duly acknowledged by the P.I.O. and the V.P. Secretary of St. Cruz, the complainant is yet to hear in the matter. The opponent also denies that in the past also, he is in a habit of creating problems/nuisance etc. It is further case of the opponent that by letter dated 02/03/2011, the opponent has furnished the information sought by the complainant and that the said information was sent by Registered A.D. and was served to the complainant dated 12/03/2011. That the opponent submits that there was some delay. However, the same is unintentional, not malafide and not persistent, that it is for the first time there has been some delay. The opponent also undertakes that he will take care in the future that delay does not occur. According to the opponent since information is furnished, this complaint is infructuous and the same is liable to be dismissed.

4. Heard the arguments. Shri C.S. Barreto the representative of the complainant argued on behalf of the complainant and the opponent argued in person. The complainant also filed written arguments which are on record.

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 whether the same is furnished in time? During the course of his arguments, the representative of the complainant, Shri C.S. Barreto said that the information is furnished. That the complainant is satisfied with the same and the complainant does not have any grievance of any sort. He does not press for any other relief.

6. Since information is furnished no intervention of this Commission is required.

7. Now it is to be seen whether there is any delay in furnishing information. Admittedly there is delay in furnishing information. Further according to the opponent, the same is unintentional, not malafide and not persistent. The opponent submits that it is for the first time delay

has occurred and he undertakes in the future he will not repeat the same. The explanation given is to be accepted and delay is to be condoned. More so, on the assurance that the opponent will not repeat the same in future. Besides, the representative of the complainant also does not press for the same. Hence delay is condoned. However opponent is warned that in future, he should not repeat the same.

8. Another aspect in this complaint is the complainant has filed application raising objection for the appointment of advocate by the opponent. According to him there is no provision under R.T.I. Act for P.I.O. to engage the services of advocate who are on Government panel except in case whether there is point of law to be adjudicated. According to the complainant in case where the P.I.O. intends to engage the services of private advocates, he has to obtain the permission of his higher authorities. He also submitted that advocate Shri P. R. Karpe should be directed to produce a copy of the permission granted by the higher authorities of the P.I.O. Reply of the opponent on this aspect is also on record. According to the opponent, there is no bar on the appearance of the Panchayat advocate on behalf of the P.I.O. That the appointment of the advocate Karpe is done by the valid resolution and he is appointed by Panchayat body. Therefore the question of obtaining permission of higher authorities and surreptitiously paying advocate fees from the panchayat fund does not arise. That Advocate Karpe has filed his Wakalatnama and therefore direction to produce the copy of the permission granted by the higher authorities is not necessary and that complainant has filed present application with ulterior motive and to harass the opponent. According to the opponent application is liable to be dismissed.

9. I have carefully gone through the records of the case and also considered the arguments which are on record. It is a fact that R.T.I. Act does not debar appearance of the advocate. This Commission cannot debar advocate appearing before the Commission unless there is specific provision. I do agree that R.T.I. Act is so simple and clear that the appearance of advocate normally is not required. However, it is for the concerned authorities to engage advocate or not. And therefore I leave the same point for the complainant or his representative to agitate the same before proper forum. In view of 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 disposed off accordingly.

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

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