

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 115/SCIC/2011

Mr. Menon J. Falcao,
H.No. 572, Menezes Bhatt,
St. Jose De Areal, Salcete-Goa.

... Complainant

V/s

State Public Information Officer,
V.P. Secretary,
Village Panchayat St. Jose de Areal,
Salcete-Goa.

... Opponent

Complainant absent. His representative Shri John Nazareth present.
Opponent present.

ORDER
(27/10/2011)

1. The Complainant, Shri Menon J. Falcao, has filed the present complaint praying that the opponent be directed to provide the information sought by the Complainant vide application dated 25/04/2011 that penalty be imposed and that disciplinary action be initiated against the opponent.

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

That the Complainant, vide his application dated 25/04/2011, 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 did not make any attempts to search the records and in a very lethargic and casual manner or with malafide intention to deny the information to the Complainant replied by letter dated 21/05/2011 stating that the information asked is not available and that application is disposed off. That aggrieved by the denial the Complainant preferred an appeal before the First Appellate Authority. That by order dated 01/07/2011, the F.A.A. directed the opponent to trace the information

and to provide the appellant within 10 days from the date of order. Since information was not furnished the appellant preferred the present complaint.

3. The opponent resists the complaint and the reply is on record. It is the case of the opponent that the complainant had requested for certain information by application dated 25/04/2011. That the opponent had taken charge of V. P. of Sao Jose de Areal on 30-9-2011 afternoon. That immediately after taking over the charge the present P.I.O./Opponent made attempt to find out the copies of the information sought by the complainant. That after verifying the records available in the concerned file are partly eaten by white ants, however, available copies were immediately furnished to the Complainant on 15th October, 2011 vide letter dated 15/10/2011. It is further the case of the opponent that during the period from 25-4-2011 upto 30/09/2011 (a) Shri S. K. Phadte (from 25-4-2011 to 10-5-2011); (b) Krishna Gaude (from 11-5-2011 to 2-7-2011) and (c) Advin Carvalho (from 3-7-2011 to 30-9-2011) were the Secretaries/P.I.O.. That the opponent has provided the information within the stipulated period from the date of taking charge of V. P. Sao Jose de Areal.

4. Heard the arguments. Shri John Nazareth representative of the Complainant argued on behalf of the complainant and the opponent argued in person.

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 by application dated 25/04/2011 the complainant sought certain information from the opponent. The information consisted of three points i.e. Sr. No.1 to 3. The information was in the nature of certified copies of certain documents. By reply dated 21/5/2011 the opponent informed the complainant that the information sought is not available and that application was disposed off. Being aggrieved the complainant preferred the appeal before the First Appellate Authority. By order dated 01/07/2011, the P.I.O./V.P. Secretary was directed to trace the information and to provide the appellant within 10 days from the date of the order. Since the order was not complied with the complainant has filed the present complaint.

During the course of arguments the representative of the Complainant submits that information is furnished.

6. The representative of the Complainant contends that there is delay in complying with the order of the Appellate Authority and Secondly the P.I.O. Krishna Gaude gave false information. According to the P.I.O., he furnished the information in time considering his period of joining the Panchayat on 30/09/2011.

I have gone through the records initially the reply is furnished on time. However the order of the F.A.A. was not duly complied with. In any case, the P.I.O. Shri Krishna Gaude and P.I.O. Edwin Carvalho should be given an opportunity to explain about the same in the factual backdrop of this case.

7. Another contention is about giving false and misleading information. According to the representative of the complainant the P.I.O./Krishna Gaude gave false information.

It is to be noted that purpose of the R.T.I. Act is per se to furnish information. Of course, complainant has a right to establish that information furnished to him is false, incorrect, misleading etc., but the appellant has to prove it to counter opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of R.T.I. Act would be defeated. It is pertinent to note that mandate of R.T.I. Act is to provide the information-information correct to the core and it is for the complainant to establish that what he has received is false incorrect etc. With this view in mind, I am of the opinion that the Complainant must be given an opportunity to substantiate that the information given to him is incorrect, false etc as provided in Sec 18 (1) (e) of the R.T.I. Act.

9. In view of the above, since information is furnished, no intervention of this Commission is required. The P.I.O. Krishna Gaude and P.I.O. Edwin Carvalho are to be heard on the aspect of delay. The complainant should be given an opportunity to prove that information is incorrect, false etc. Hence I pass the following order.:-

ORDER

The Complaint is allowed. No intervention of this Commission is required since information is furnished.

Issue notice U/s.20(1) of R.T.I. Act to the P.I.O. Shri Krishna Gaude, Shri Edwin Carvalho as well as present P.I.O. Shri Rajendra Naik to show cause why penal action should not be taken against them for causing delay in furnishing information. The explanation if any should reach the Commission on or before **21/12/2011**. All the P.I.O.s Krishna Gaude, Edwin Carvalho and Rajendra Naik shall appear for hearing.

The complainant to prove that information furnished is incorrect and false.

Further inquiry posted on **21/12/2011** at **10.30 a.m..**

The Complaint is accordingly disposed off.

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

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