

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.593/SCIC/2010

Shri V. A. Kamat
R/o. G-1, Ravindra – A,
Next to Hotel Ameya,
Opp. St. Inez Church,
St. Inez, Panaji – Goa

... Complainant

V/s

The Public Information Officer,
& Corporation of the City of Panaji,
Dr. Pissurlekar Road,
Panaji - Goa

... Respondent

Complainant in person.
Adv. J. Ramaiyya for the oppoent.

ORDER
(10/11/2011)

1. The Complainant, Shri V. A. Kamat, has filed the present complaint praying that the directions be issued to the opponent to desist from furnishing the information through A.P.I.O. or any other unauthorized person; That directions be issued to the opponent to furnish the correct and complete information and that too free of charge; that penalty be imposed on the opponent and that the compensation be awarded to the complainant who is a senior citizen for causing him mental and physical harassment.

2. It is the case of the complainant that the complaint has been filed for furnishing incomplete misleading and false information and that too through a person who is not authorized to furnish information under Right to Information.

It is the case of the complainant that the complainant filed an application dated 8/9/2010 seeking certain information under Right to Information Act ('R.T.I.' Act for short) from the Public Information Officer (P.I.O.)/Opponent. That the complainant neither received the said

information nor any communication from the opponent within the specified time. However, he received a letter dated 7/10/2010 from one Shri J.S. Colaco purported to be A.P.I.O. That the information so furnished was also incomplete. It is the case of the complainant that under R.T.I. Act only the P.I.O.(Public Information Officer) that is opponent is authorized to furnish the information. However the opponent has been furnishing incomplete and misleading information through his A.P.I.O. obviously to avoid penal action as A.P.I.O. is not liable under R.T.I. Act. That by letter dated 14/10/2010, the Complainant brought this fact to the knowledge of the opponent and also explained to him how the information is incomplete from point No.1 to 5 of the said application and further requesting him to furnish correct and complete information within 7 days from the receipt of said letter. Once again said APIO provided further information by his letter dated 21/10/2010. That the information so provided is also incomplete and misleading. That the complainant has deliberately provided incomplete and misleading information through his A.P.I.O. to avoid penal action besides Shri J. S. Colaco, Account Officer has not been notified as A.P.I.O. In short, it is the case of the complainant that the information furnished is incomplete, misleading and false. Hence the present complaint on various grounds as set out in the complaint.

3. The opponent resists the complaint and the reply of the opponent is on record. It is the case of the opponent that the complaint filed by the complainant is a product of complete misconstruction of law and fact. That the complainant has attempted to invoke Sec.18(1) of the Act. Even when the said alternate remedy was available to approach the first appellate authority. That the powers vested in the Commission U/s.18 of the R.T.I. Act are more so of the nature of inherent power which should be used with great caution, circumspection and sparingly and the same action and should not be invoked in each and every case without affording proper reasoning to the same, which the complainant has not set out. In case information is complete when the complaint is not maintainable as the letter dated 8/9/2010 which is the crux of the complaint is not within the ambit of the R.T.I. Act. That neither queries are within the ambit of Sec.6 of R.T.I. Act as laid down in Sec.2(f) and Sec.2(j) of the R.T.I. Act. That on the contrary the complainant has miserably failed to appreciate the attempt made by the Corporation to try

to appease the vague and confusing queries of the complainant even when it was not liable to disclose any information which were not in their records U/s.6 of R.T.I. Act. That the queries are vague and confusing. That the complainant did not even mention as to what information he exactly sought from the corporation though the said query was answered.

It is the case of the opponent that all the queries are vague and not specific. That whatever was available has been furnished and that too correctly. The opponent has elaborately enumerated in the reply about the queries asked in detail and also reply furnished. In any case according to the opponent the complaint is liable to be dismissed.

4. Heard the arguments. Complainant argued in person and ld. Adv. Shri J. Ramaiyya argued on behalf of the opponent.

5. The complainant referred to the facts of the case in detail. According to him information is furnished. Further the same is furnished by person who is not authorized to give information. He referred to the reply of the opponent and particularly para 3 to 5 of the complaint as well as the reply. According to the complainant information is furnished but the same is incomplete, misleading and false.

During the course of his arguments, the ld. Advocate for the opponent submitted that the complaint is U/s.18. According to him whether A.P.I.O. is liable to give information cannot be taken in this case. He also submitted that public authority can appoint an A.P.I.O. and that this commission cannot decide this issue of A.P.I.O. He next submitted that there is no reason given to file the present complaint. According to him, the information sought is not within the ambit of 2(i), 2(j). He advanced submissions in similar vein as mentioned in his reply.

In reply the complainant submitted that the complaint is maintainable and that Shri Coloco has not been appointed as A.P.I.O.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. It is seen, 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 8/9/2010, the complainant sought certain information. The information consisted of 8 items i.e. Sr. No.1 to 8. By reply dated 7/10/2010, the Assistant P.I.O. furnished the information. By letter dated 14/10/2010, the complainant again wrote to the P.I.O. that information furnished by A.P.I.O. is not authorized to furnish information under R.T.I. Act. Nor is liable under the said act. It was also pointed out to the P.I.O. that the information furnished was incomplete. It is seen that by letter dated 21/10/2010 the A.P.I.O. furnished information as mentioned in the said letter. During the course of the arguments, complainant submits that information is furnished. Further the grievance of the complainant is that the information which is furnished is incomplete misleading and false. The complainant contends that information is incomplete, misleading false. This is disputed by the advocate for the opponent. According to him, even though the queries raised are not within the purview of R.T.I. Act yet information was furnished. According to him, what is available has been furnished and what is furnished is true and correct.

7. According to the complainant the information furnished is false, incomplete and misleading. According to Adv. for the opponent the information furnished is true and correct. It is to be noted here 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 complainant has to prove it to counter opponent's claim. The information seeker must feel that he got 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 information-information correct to the core and it is for the complainant to establish that what he 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 that the information given to him is incomplete, incorrect, misleading etc. as provided in Sec.18(1) (e) of the R.T.I. Act.

8. In view of the above, the complainant should be given an opportunity to prove that the information is incomplete, incorrect, misleading etc. Hence I pass the following order.

ORDER

Complaint is allowed. The complainant to prove that information furnished is false, incomplete, misleading etc..

Further inquiry posted on 04/01/2012 at 10.30 am.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 10th day of November, 2011.

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