

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No.69/2009

Mr. Kashinath Shetye,
Babina Bldg. Alto-Fondvem,
Ribandar, Tiswadi-Goa.

----Complainant.

V/s

- | | | |
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| 1) Public Information Officer,
Joint Chief Electoral Officer,
Altinho, Panaji-Goa | ... | Opponent No.1 |
| 2) The First Appellate Authority,
The Chief Electoral Officer,
Altinho, Panaji-Goa | ... | Opponent No.2 |
| 3) The Deemed & Asst, PIO
Asst. Chief Electoral Officer,
Altinho, Panaji-Goa . | ... | Opponent No.3 |

Complainant in person.

Adv. K.L. Bhagat for Opponent no.2

ORDER
(19-8-2011)

1. Complainant, Shri Kashinath Shetye, has filed the present, Complaint praying that the information as requested by the appellant be furnished to him correctly free of cost as per section 7(6), that penalty be imposed on the P.I.O., that compensation be granted, that F.I.R may be lodged and inquiry be made for losing the appeal and the culprit may be booked under Cr. P.C.

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

That the complainant filed an appeal dated 14/09/2009 under Right to information Act, 2005 (R.T.I. Act for short) thereby requesting the First Appellate Authority, to decide the appeal specified therein. That the Public Information officer (P.I. O.) opponent No.1 failed to furnish the required information as per the application of the complainant. Being

aggrieved by the order the complainant has filed the present complaint on various grounds as set out in the complaint.

3. The opponents resist the complaint and the say of Opponent No.2 and 3 is on records. It is the case of Opponent No.2 that the Complainant had filed an appeal under section 19 of the R.T.I. Act, 2005, however, the said appeal got misplaced at the entry clerk level and therefore the office of the Chief Electoral Officer, Altinho, Panaji-Goa dated 14/09/2009 addressed to the Complainant, requested the complainant to furnish fresh copy of the said appeal and also to collect the information That the complainant despite having received the said letter, did not furnish fresh copy of the said appeal and therefore, the First Appellate Authority could not entertain the said appeal. That the complainant failed and /or neglected to furnish the fresh copy of the said appeal and thereby has not given an opportunity to F.A.A. to dispose off the appeal. Referring to the grounds of appeal the opponent No.2 states that with bonafide intention the opponent no.2 could not dispose off the appeal but the complainant did not give the appeal memo. That inaction on the part of complainant speaks in volume that he was only interested in seeking penalty action against opponents rather than getting information sought by him. That there was no mal intention whatsoever on the part of Opponent No.2 against the complainant. That the misplacement of the said appeal is an unfortunate event and it was not fair and proper to make an issue out of it when he could submit fresh copy of the appeal. The opponent no.2 denies the grounds as set out in the complaint

It is the case of the Opponent no.3 that the information sought by the complainant was in the custody of Electricity Department. That the Electricity Department had transferred the said application to their office for furnishing the information to the applicant. That he desired information was

not available with their office except the Electricity Bill which is issued by the Electricity Department. That P.I.O. Electricity Department was requested to furnish the information to the complainant. That the complainant filed an appeal, however, the said letter got misplaced at the entry level, therefore, their office requested for a copy of the same from the complainant for hearing him in the matter. That the Electricity Department was having the information and they wrongly transferred the same. That they received information from Electricity Department and the same was furnished to the complainant.

4. Heard the complainant and Adv. K.L. Bhagat for opponent No.2.

According to the complainant the appeal was deliberately destroyed. First appeal is not disposed off, decided so far. He next submitted that there is delay in furnishing the information.

Adv. Bhagat submitted that appeal could not be disposed off as the same was lost. According to him this was not deliberate but the same was misplaced.

5. I have carefully gone through 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.

It is seen that the complainant, vide application dated 9/6/2009 sought certain information from the P.I.O. the Executive Engineer (procurement) Electricity Department. It is to be noted here that the application is complaint for increase of load without permission Cum R.T.I. It appears by letter dated 22/6/2009 the Joint Chief Electoral Officer informed the P.I.O. Exe. Engineer (Procurement) that the said information is not in their records and that the same must be with them only. By letter dated 16/11/2009 the Asst. Engineer Electricity, Panaji Goa, furnished the detailed

information to the Chief Electoral Officer and by letter dated 19/11/2009, the Asst. Chief Electoral Officer furnished the same to the complainant.

It is seen that in the first place the Executive Engineer, Electricity ought not have transferred the application when information was with them. Secondly they could furnish the information directly to the complainant as the application was filed before Electricity Department.

6. Now, it is to be seen whether there is delay in furnishing the information. The application is dated 9/6/2009. The information is furnished by letter dated 19/11/2009. Apparently there is delay. In any case P.I.O. the Executive Engineer (procurement) should be given opportunity to explain the same in the factual back drop of this case.

7. Another aspect in the instant case is regarding appeal. It appears from the record that complainant filed appeal before first Appellate authority. However the same was not heard.

It is seen that by letter dated 14/9/2009 the Asst. Chief Electoral Officer/A.P.I.O. informed the complainant that his application was misplaced in their office and the complainant was requested to furnish the copy of the same and collect the information. It appears that copy was not furnished.

It is the contention of the complainant that his appeal memo was deliberately misplaced/destroyed. This is vehemently denied by the Adv. for the opponent. Since complainant contends that this has been deliberately done a proper inquiry by Head of the Department can be done so as to bring out the truth.

8. In view of all the above since information is furnished no intervention of this commission is required. Since there is delay the concerned P.I.O. is to be heard on the same. A proper inquiry is to be held regarding missing of appeal memo. Hence I pass the following order.

ORDER

The complaint is allowed. Issue notice under section 20 (1) of the R.T.I. Act against the P.I.O. the Executive Engineer Electricity Department Vidhut Bhavan, Panaji to show cause why penalty action should not be taken against him for causing delay in furnishing information. The explanation if any should reach the commission on or before 29/09/2011, P.I.O. shall appear for hearing.

The Head of the Department of opponent No.1 or any other officer appointed by the head to conduct an inquiry regarding the missing of appeal memo and to fix responsibility and initiate action against the delinquent officer and/or be suitably penalized as per law. The inquiry be completed as early as possible preferably within two months and report compliance.

Inquiry regarding delay posted on 29/09/2011.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 19th day of August 2011.

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

