

**GOA STATE INFORMATION COMMISSION**  
**AT PANAJI**

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

Complaint No. 104/SCIC/2011

Lt. Col Albin Fernandes (Retired)  
H.No.203(New), 131/5A(Old),  
Chaudi Vaddo, Marna-Siolim,  
Bardez-Goa

...Complainant

**V/s**

1) Deputy Collector (LA),  
Public Information Officer,  
O/o Collector (North), Panaji-Goa

....Opponent No.1

2) The First Appellate Authority,  
Block Development Officer-I,  
Of Bardez,  
Mapusa-Goa.

.... Opponent No.2

3) The Public Information Officer,  
Secretary,  
Village Panchayat of Siolim-Marna,  
Bardez-Goa.

.... Opponent No.3

Complainant in person

Opponent 1, 2 & 3 present

**ORDER**  
**(30.09.2011)**

1. The complainant, Shri Lt. Col Albin Fernandes (retired) has filed the present complaint praying that penalty be imposed in accordance with law and that opponent No.2 and 3 be directed to provide certified copy of document requested for by complainant and other relief as mentioned in the complaint.

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

That by judgment and order dated 11/1/2010, the Hon'ble Goa State Information Commissioner had directed the opponent No.3 the Secretary of Village Panchayat of Siolim, Marna, Bardez-Goa, to transfer the request of complainant to the Public Information Officer, Collector's office dealing with land acquisition cases and to provide the information (a), (b) and (c) directly to the complainant. That the Opponent No.1 addressed correspondence dated 10/02/2010 to opponent No.2 to furnish details of the land acquisition project namely, the possession certificate. That, vide letter dated 19/02/2010, the Opponent no. 2 furnished, Mundkar purchase certificate instead of possession certificate. That the Opponent No.1 vide letter dated 28/04/2010 addressed to the complainant to provide any additional information on the subject matter. That the complainant furnished information by way of documents by

which Opponent No.3 took resolution No.19 of Panchayat statutory body meeting of 11/04/2010. “..... It is therefore unanimously resolved that the Nallah has to be maintained and should become the property of the Panchayat in public interest. Further it has been decided that the above nallah should be acquired and should approach the government for the purpose of said acquisition proceedings.” That the Opponent No.3 having taken resolution No.19, in meeting of 11<sup>th</sup> April 2000 in respect to seasonal water drain in survey No.48/10, proceeded in Appeal in court of Law against the Complainant in the Administrative Tribunal of Goa at Panaji in case No.3 against orders of the Ld. Deputy Collector of Bardez, Mapusa Goa in Re-survey no.16/46/95/Re-sur of 28<sup>th</sup> Sept. 1995. It is the case of the complainant that Opponent No.1 vide letter No. Misc/A/c/LA/RTI 2010 of 27<sup>th</sup> July, 2010. safely presumed/concluded that land in survey no.48/10/ of village Siolim-Marna, seasonal water drain has not been acquired by Opponent No.3. That the Government Officials/Staff are trying to cover up faults of opponents and involved persons.

3. The Opponents did not file any reply as such. However, Opponent No.3 advanced the arguments.

4. Heard the complainant and Opponent No.3 and perused the records.

It is seen that Appellant/complainant vide application dated 2/3/2009 sought certain information in connection with the acquisition of property in survey No.48/10. That by reply dated 2/4/2009 the P.I.O./village Panchayat of Siolim Marna, Bardez Goa, directed the Appellant/Complainant to write a letter to the Collector in order to get publication in the official Gazette. Being not satisfied Appeal before First Appellate Authority was filed and subsequently second appeal in the Commission was filed. By order dated 11/1/2010 the P.I.O. was directed to transfer the application under section 6(3) to the P.I.O. Collectors Office dealing with land acquisition cases.

It is seen from the records that by letter dated 1/2/2010 the P.I.O./Village Panchayat transferred the request by letter dated 1/2/2010 to the Office of Collector with intimation to the complainant herein. The Dy. Collector (L.A) by letter dated 10/02/2010, sought details possession certificate from B.D.O. Opponent No.1 However, Mundkar purchased certificate was sent. Both these letters were also marked to the complainant. Thereafter by letter dated 28/04/2010, the Dy. Collector (L.A) P.I.O. sought certain clarification from the complainant. The Complainant by letter dated 21/06/2010 furnished the same and by letter dated 27/07/2010 it was informed that in the absence of any details of the land Acquisition project, it can be safely presumed that there is no land acquisition done for seasonal water drain in Sy. No.48/10 of Siolim Marna.

From the above, it is seen that land Acquisition Possession certificate is not available on the record. Under R.T.I. information that is available is to be furnished. Non existent information cannot be furnished. Since information is not existing it did not qualify to be an information "held" by the Public Authority in terms of section 2(j) of the R.T.I. Act. The R.T.I. Act can be invoked only for access to permissible information.

5. During the course of the arguments the complainant alleged about property its ownership, fraud, Mundkar possession certificate etc. It may be the complainant might be having a genuine grievance, however, this is not the forum for redressal of the same. The Complainant has to agitate the same before the concerned authority/forum.

6. The Complainant also prays for penalty. It is seen from the records that the Opponent No.1 acted within time from the receipt of the letter and the copy of the letter dated 10/02/2010 was sent to the complainant. The copy of letter dated 17/03/2010 was also sent to the complainant. Both these letters show that information was not with the Opponent No.1 under the circumstances the question of penalty does not arise.

7. In view of all the above, since information is not available the same cannot be furnished. Hence, I pass the following order;

### **ORDER**

Since information is not available the same cannot be furnished. The Complaint is disposed off.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 30<sup>th</sup> day of September 2011.

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