

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 21/SCIC/2008

Mrs. Sangeeta Pednekar,
H. No. 477, Canca Abas Wado,
Bardez – Goa

... Complainant.

V/s.

1) The Public Information Officer,
The Secretary,
Village Panchayat of Verla Canca,
Bardez – Goa

... Opponent No. 1.

2) The First Appellate Authority,
Block Development Officer,
Bardez Taluka,
Mapusa – Goa

... Opponent No. 2.

Complainant alongwith Adv. S. Naik.
Adv. M. G. Rane for Opponent No. 1.

ORDER
(02.12.2011)

1. The Complainant, Smt. Sangeeta Pednekar, had filed the present Complaint praying that the Order dated 12.06.2008 passed by this Commission be executed so as to enable the Appellant to procure the information sought by her and that the First Appellate Authority/B.D.O. be held for contempt for non-compliance or order dated 12.06.2008 and necessary penalty be imposed for the said default.

2. The facts of the case are set out in the Complaint. It is the case of the Complainant that by order dated 12.06.2008 this Commission was pleased to give the directions to the B.D.O. that he should search his own office records and furnish the copies of the resolutions to the Appellant/Complainant and that the compliance report should be submitted within a period of one month which period expired on 12.07.2008. That in total disregard of the said order dated 12.06.2008, the F.A.A./the B.D.O. of Bardez, till date has failed and neglected to furnish the said copies to the Appellant/Complainant and has thereby committed contempt of the said order. That the great prejudice has been caused to the Appellant/complainant on failure of B.D.O. to comply with the order dated

12.06.2008 and, therefore, the Appellant/Complainant is entitled to a relief for execution of the order dated 12.06.2008 and for imposition of necessary penalty for contempt of the said order.

3. The Opponent No. 1 and 2 resist the Complaint and their replies are on record.

It is the case of the Opponent no.1 that in the house tax register separate house number has been issued. That the Opponent No. 1 has reconstructed separate files as per the directions.

It was the case of the Opponent No. 2 that the Order dated 12.06.2008 in the Appeal No. 120/2007/VP passed by Commission was received in the Office of Opponent /Respondent No. 2 on 20.06.2008. That immediately thereafter the Respondent No. 2 issued oral instruction to Head Clerk, Inward Clerk to search the Inward Register pertaining to February 2002 and June 2002 and find out whether the Respondent/Opponent No. 1 had submitted certified copies of fortnightly meeting proceedings or not. That after the search it was found that the said certified copies were never submitted in the Office of Respondent/Opponent No. 2. That thereafter Respondent/Opponent No. 2 issued a Memorandum dated 11.07.2008 to the Respondent No.1/Opponent No. 1 in order to try to furnish the information. That thereafter Respondent/Opponent No. 1 submitted letter dated 16.07.2008 stating that proceedings book of February 2002 to June 2002 was never handed over to Opponent No. 2 while taking charge. It is the case of Opponent No. 2 that thereafter Opponent No. 2 has replied the Appellant/complainant vide letter dated 28.07.2008; however, this reply is not accepted by the Appellant/Complainant so far. However due to workload on inward and outward Clerk there was delay in dispatching this letter to the Complainant. That delay in sending the reply and submitting compliance is not intentional or malafide but accidental due to huge workload. It is further the case of the Opponent No. 2/Respondent No. 2 that he has not committed any willful disobedience of the Order of the Commission but the delay is unintentional.

4. It is seen that the Opponent No. 1 has filed the Compliance report dated 05.12.2008. As per the Compliance Report, Opponent states that Opponent has already reconstituted the file and also filed the complaint to

the Mapusa Police Station on 21.10.2008. The Opponent No. 1 also states that Complainant was called but did not come to collect the information and as such the Opponent No. 1 sent the documents by Regd. A/D. That the said document returned back with the postal remark "Unclaimed return to the sender". In short according to the Opponent No. 1 he has complied with the Order of the Commission. The compliance report is on record.

5. It is seen that the Roznama dated 05.12.2008 mentions about sending information by post about calling Complainant to collect, etc. and hence Commission treats the matter as closed and disposed off the case accordingly.

It appears that the Complainant preferred Writ Petition bearing No. 262 of 2009 and by Order dated 18.02.2011 the Writ Petition was disposed off. It was observed as under:-

"In view of the above, the Order dated 05.12.2008 passed by Respondent No. 1 is quashed and set aside and the matter remanded to Respondent No. 1 for fresh decision. Respondent No. 1 shall pass appropriate order in accordance with law after giving opportunity of being heard to the parties."

Accordingly opportunity was given to the parties and the parties were heard. The learned Adv. Shri A.D'Silva argued on behalf of Complainant and the learned Adv. Shri M. J. Rane argued on behalf of Opponent No. 1.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the parties.

I need not refer to the facts of the case, nor appeal, etc. in detail. Suffice it to say that in Second Appeal 120/2007/V.P. the S.C.I.C. Shri Venkatratnam passed the following Order:-

".....
.....

6. The Public Information Officer is directed to reconstruct the records of the grant of the two separate House Nos. 47/A and 477/B in the names of Shri Anant N. Shetgaonkar and Suhas N. Shetgaonkar from house tax register as well as "transfer of house tax files" which was handed over by Shri Pagui to Kambli at item 15 of the charge report dated

13.03.2009. The Compliance Report should be submitted to the Commission within a period of one month from the date of this Order.”

By Order dated 29.09.2008 in Complaint No. 21/SCIC/2008 it was ordered as under:-

“

The present Village Panchayat Secretary was given a direction to reconstruct the house tax file of H. No. 477 A and 477 B. He has reported compliance. He may now give the records to the Complainant especially the decision of the Panchayat leading to the grant of two separate house number in favour of Annat N. Shetgaonkar and Suhas N. Shetgaonkar.

.....

The Opponent No. 1 is hereby directed to register the fresh Complaint with the police about the missing records and requests for investigation. The matter is further posted for compliance on 08.10.2008.”

7. It is seen that Compliance Report dated 05.12.2008 is on record. As per the said report the order was passed as mentioned hereinabove. It is this order which was set aside by the Hon’ble High Court.

It is pertinent to note that the Order dated 12.06.2008 stands since the same is not set aside the same is to be complied. Besides, the Opponent No. 1 has assured that as directed file has been reconstructed. Therefore there is no difficulty in complying the Order dated 12.06.2008. The Opponent No. 1 will have to comply with the said Order.

Needless to say that Complaint is disposed by Order dated 29.08.2008. It is observed as under:-

“

..... The present Village Panchayat Secretary was given a direction to reconstruct the house tax file of H. No. 477A and 477B. He has reported compliance.

He may now give the records to the Complainant, especially the decision of the Panchayat leading to the grant of two separate house number in favour of Anant N. Shetgaonkar and Suhas N. Shetgaonkar.....”

Therefore, the question of compliance remains.

8. In view of the above I am of the opinion that the Opponent No. 1 to comply the said Order dated 12.06.2008 and since the Opponent has stated in the compliance report that Opponent has already reconstituted the file the Opponent to furnish the said information to the Complainant/Appellant. Hence, I pass the following Order:-

ORDER

The Opponent No. 1/Public Information Officer to comply the Order dated 12.06.2008 i.e. to furnish the information/records especially the decision of the Panchayat leading to the grant of two separate house numbers in favour of Anant N. Shetgaonkar and Suhas N. Shetgaonkar, within 20 days from the receipt of this Order and report compliance on 16.01.2012.

The proceedings are accordingly disposed off.

Pronounced in the Commission on this 2nd day of December, 2011.

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

