

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.34/SIC/2011

Shri Jowett D'Souza
R/o.H.No.139, Ambeaxir,
Sernabatim, Colva,
Salcete - Goa

... Complainant

V/s

Dr. Rajan V. S. Kunkolienkar,
Medical Superintendent,
Goa Medical College & Hospital,
Bambolim-Goa

... Opponent

Complainant absent.

Opponent absent.

ORDER
(20/12/2011)

1. The Complainant, Shri Jowett D'Souza, has filed the present complaint praying that the letter of the opponent dated 7/2/2011 addressed to the complainant be quashed, cancelled and set aside. That opponent be directed to furnish the information in terms of letter dated 19/11/2011 and that disciplinary action against opponent be taken as per Section 20 and 18(2)(3) of the Right to Information Act for denying the information.

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

That the complainant has been working in the State of Goa in promoting/monitoring Right to Information Act among the Goan people to help and educate general public to fight the rampant corruption, misdeeds going in various Government Departments, etc in the State of Goa and a Human Right Activist. That after going through the English dailies such as Herald, Times of India, Navhind Times, etc. the complainant came to know about the custodial death of Shri Cipriano Fernandes of Moira, Bardez through the hands of police officers attached to Panaji Police Station headed by Police Inspector Sandesh Chodankar. That this forced the complainant to file a criminal complaint before Agacaim Police Station on 15/1/2011 against P.I. Sandesh Chodankar

and others. That the complainant vide his application dated 19/1/2011 sought certain information under Right to Information Act, 2005 ('RTI' act for short) from the Public Information Officer (P.I.O.)/opponent herein. That the opponent in collusion with his colleague professor, Dr. Silvano Dias Sapeco rejected the information U/s.8(h)and (e) of the R.T.I. act by letter dated 27/01/2011. Being aggrieved the complainant on 28/1/2011 filed the appeal before First Appellate Authority(F.A.A.). That the F.A.A. heard the appeal and passed order dated 31/1/2011 granting the entire information as sought by the complainant vide his application dated 19/1/2011 whereby directed the opponent to furnish the information to the complainant within two weeks from the date of passing the order.

That the opponent wrote a letter to the complainant dated 7/2/2011 informing that the information as desired by the complainant is ready and the same should be collected from the office of the opponent by paying the amount of Rs.42/-. That the complainant visited the Office of the opponent on 10/2/2011, made the payment and collected the information of 19 pages. That the opponent has failed to furnish the information to the complainant in respect of point at Sr.1 to 10 and 12. That this has been done deliberately by the opponent. Being aggrieved the complainant has filed the present complaint.

3. The opponent resists the complaint and the reply of the opponent is on record. In short it is the case of the opponent that the letter dated 19/1/2011 was received from the complainant. That the same was forwarded to Medical Record Department and Department of Forensic Medicine for seeking the information under the R.T.I. Act. That the Professor and Head of Forensic medicine refused to give the information in view of clause 8 Sub Clause (h) and (e). That the Medical Record Department informed that the original case papers is not in their possession and hence all the information can not be given and sent the application to Department of Forensic Medicine to explore the possibility of getting any information. That in the meantime a petition was filed by the appellant to the F.A.A. against the decision of the Professor and Head of Department of Forensic Medicine. It is the case of the opponent that based on the order passed by the F.A.A., all the information available was issued to the applicant. That since as per information the original papers and documents were taken by the Sub Divisional Magistrate, the application was transferred to him to issue the documents to the

applicant under R.T.I. Act. That Sub Divisional Magistrate has informed that the original documents taken by him has been handed over to the Superintendent of Police, CID, Crime Branch, Dona Paula, Goa. That based on his letter, Sub Divisional Magistrate has been requested to give attested certified copies of these documents to their office. That on receipt of these documents, balance information, possible will be given to the complainant.

4. Heard the Complainant as well as opponent. The complainant submits that information is furnished. However there is much delay.

According to the opponent there is no delay as such, as whatever available information was furnished to the complainant.

5. I have carefully gone through the records of the case and also considered arguments advanced by the parties. The point that arises for my consideration is whether information is furnished? And whether there is any delay in furnishing the information?

It is seen that by application dated 19/01/2011, the complainant sought certain information. The information consisted of 12 points from Sr. No.1 to 12. By letter dated 27/01/2011, the complainant informed the P.I.O./opponent that information be supplied within 48 hours as the same concern's life of a person and as per Section 7(1) of the R.T.I. Act. It is seen from record that by reply dated 27/1/2011, the opponent informed the complainant that information cannot be given in view of Sec.8 (1) (h) (e). It is seen that being not satisfied, the complainant preferred the appeal before F.A.A. By order dated 31/01/2011, the F.A.A. directed the opponent to furnish the information to the appellant as sought within two weeks from the receipt of the order. It was also observed that the opponent is directed to follow provision of R.T.I. Act, 2005 and Rules thereof.

Being aggrieved as information was not furnished, complainant preferred the present complaint.

6. It is seen from above, that initial reply was furnished in time. According to the complainant there is delay in furnishing the information.

Since information is furnished, no intervention of this Commission is required.

7. Now it is to be seen whether there is any delay in furnishing the information. According to the complainant there is delay. Whereas according to the opponent there is no delay as such. Whatever available information was furnished and some information was furnished subsequently. In any case to my mind opponent has to be given an opportunity to explain about the delay. In the reply the opponent submit that there is slight delay in furnishing the information as the same was not available with them. In any case, opportunity to explain the same is to be given to the opponent in the factual backdrop of this case.

In view of all the above, I pass the following order.

ORDER

The Complaint is partly allowed. No intervention of this commission is required as information is furnished.

Issue notice U/s.20(1) of R.T.I. Act to the opponent/P.I.O. 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 **02/02/2012**. The P.I.O./Opponent shall appear for hearing.

Further inquiry posted on **02/02/2012** at **10.30 a.m..**

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 20th day of December, 2011.

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