

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Complaint No. 161/SIC/2011

Shri C. Shivadasan Nair,
H. No. 87, Alisha Niwas,
Chicolna, Bogmalo,
Mormugao - Goa

... Complainant.

V/s

1) Public Information Officer,
The Health Officer,
Urban Health Centre,
Vasco-da-Gama - Goa

... Opponent No.1

2) The Secretary,
Village Panchayat Chicolna-Bogmalo,
Bogmalo – Goa

... Opponent No. 2.

Complainant in person.

Opponent No. 1 in person.

Opponent No. 2 in person.

O R D E R

(25.01.2012)

1. The Complainant, Shri C. Shivdasan Nair, has filed the present Complaint praying that the Commission be pleased to initiate the appropriate inquiry in the matter; that penalty be imposed upon Opponent No. 1 till the information is furnished to the Complainant.

2. The brief facts leading to the present Complaint are as under:- That the present Complaint is filed against Opponent No. 1 for giving false and misleading information vide letter dated 04.10.2011; that the Complainant is the owner of a plot of land and he alongwith his family has been residing in the house situated in the said plot of land. That the Complainant has submitted an application dated 24.02.2010 to the Village Panchayat of Chicolna-Bogmalo for regularization of re-construction/repair/alteration/modification of his house by enclosing thereof all the required documents. That the said Village Panchayat vide letter dated 02.03.2010 forwarded the said application dated 24.02.2010 alongwith the relevant documents to various authorities including the Opponent No.1 for necessary technical approval and issuance of NOC in respect of

regularization of reconstruction/repair/alteration/modification of the said house. That the letter from the Village Panchayat was received by Urban Health Officer/Opponent No.1 on 05.03.2010 and issuance of NOC is still awaited from the said office for the reasons best known to them. That since no action was taken by the Village Panchayat regarding the regularization of the said reconstruction for a long period, the Complainant vide letter dated 18.07.2011 addressed to the Opponent No. 2 inquired regarding the matter of regularization and requested to take immediate action in the matter. That by letter dated 08.08.2011 the said Village Panchayat expressed their inability to regularize the house without licence/permission from the concerned authorities and called upon the Complainant to obtain relevant permission and submit to the Village Panchayat of Chicolna-Bogmalo after which the matter can be considered. That the Complainant, vide application dated 15.09.2011 sought certain information under Right to Information Act, 2005 ('R.T.I. Act for short) from the Opponent no. 1/Public Information Officer (P.I.O.). That the Opponent vide letter dated 04.10.2011 informed the Complainant that after scrutinizing the file it was found that the file was incomplete, since approval for construction from Town & Country Planning Department was not enclosed. It has been further informed that the office of Opponent No. 1 communicated to Village Panchayat Chicolna by letter dated 09.03.2010 to submit the relevant documents. That the Complainant vide application dated 17.10.2011 under RTI Act, requested the Opponent No. 2 to provide information in respect of letter dated 09.03.2010. That in response to the said application dated 17.10.2011 Opponent No. 2 vide their letter dated 04.11.2011 has informed the Complainant that the Village Panchayat of Chicolna-Bogmalo is not in respect of the said letter dated 09.03.2010 from Opponent No. 1. Being aggrieved by the action of Opponent No. 1 of furnishing misleading and false information to the Complainant the Complainant has preferred the present Complaint on various grounds as set out in the Complaint.

3. In pursuance of the notice the Opponent No. 1 and Opponent No. 2 appeared. The Opponents did not file any reply as such. However, they advanced arguments.

4. Heard the Complainant as well as Opponent. According to the Complainant false and misleading information has been furnished and he referred to the Complaint.

During the course of his arguments Opponent No. 1 also pointed that whatever information furnished is correct.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not.

It is seen that the first application under RTI was filed on 15.09.2011. By reply dated 04.10.2011 the Opponent No. 1 furnished the information. It is seen that Complainant on 17.10.2011 sought certain information from the Opponent No. 2. By reply dated 04.11.2011 Opponent No. 2 informed the Complainant that their office i.e. Village Panchayat is not in receipt of letter dated 09.03.2010 from Health Officer, Vasco.

The main grievance of the Complainant is that the Opponent No. 1 has furnished incorrect and misleading information.

6. First I shall refer to the aspect of delay i.e. whether there is delay in furnishing the information.

It is seen that the request seeking information is dated 15.09.2011. The reply is dated 04.10.2011. The same is within time.

The next request is dated 17.10.2011 and reply is dated 04.11.2011. This is also in time. Therefore, there is no delay in furnishing the information.

7. The Complainant contends that information furnished is false and misleading. This is disputed by Opponent No. 1. According to Opponent No. 1 information furnished is correct.

It is to be noted that purpose of RTI Act is per se to furnish information. Of course the Complainant has a right to establish that information furnished to him is false, misleading, etc. however, the Complainant has to prove it to counter Opponent's claim. The information seeker must feel that he got the

true and correct information otherwise purpose of RTI Act would be defeated. It is pertinent to note that mandate of RTI 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 false, incorrect, misleading, etc. as provided in Section 18(1) (e) of the RTI Act.

8. In view of the above, I am of the opinion that the Complainant should be given an opportunity to prove that the information is false, misleading, etc. Hence, I pass the following Order:-

ORDER

Complaint is allowed. The Complainant to prove that information furnished is false, incorrect, misleading, etc.

Further inquiry posted on 07.03.2011 at 10:30a.m.

Pronounced in the Commission on this 25th day of January, 2012.

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