

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No.56/SIC/2011**

Shri Pascoal Agnelo Lacerda,  
R/o.H.No.E-77, Saicowado,  
Chinchinim, Deussua,  
Salcete, Goa ... Complainant

V/s.

1. P.I.O., Shri Allen De Sa,  
Superintendent of Police (South)  
South Goa District,  
Margao-Goa
2. The Police Inspector,  
Shri Nelson Albuquerque,  
Incharge of Cuncolim Police Station  
Cuncolim, Salcete-Goa
3. Head Constable,  
B. No.4009,  
Shri S.A. Arondekar  
Cuncolim Police Station,  
Cuncolim, Salcete-Goa ... Opponent

Complainant absent.  
Adv. A. Dessai present.  
Opponent No.1 & 3 absent.  
Opponent No.2 present.

**ORDER**  
(16/01/2012)

1. The Complainant, Shri Pascoal Agnelo Lacerda, has filed the present complaint praying that P.I.O./Opponent No.1 be directed to provide the information sought by the complainant by application dated 31/01/2011 under R.T.I. Act 2005; that opponent No.1/P.I.O. be directed to compensate the complainant for the loss and other detriments suffered by him for prosecuting application dated 31/01/2011 before the opponent and this Commission; that penalty under Sec.20 of the R.T.I. Act be imposed; that disciplinary action be initiated against the P.I.O. and opponent No.2 and 3

through the Director of Vigilance Govt. of Goa or such other competent authority for committing the fraud and administration of justice with respect to the complaint and fix responsibility on the concerned.

2. The facts of the case are fully set out in the complaint. The gist of the complaint is that on 15/08/2009, the complainant while proceeding from Chinchinim Bazar to his house was hit by Zen car bearing No.GA-08-A-5891 which was roughly and negligently driven by one Succor Pereira. That as a result the complainant suffered injuries and felt unconscious on the spot. That the complainant was shifted to Hospicio Hospital then to Goa Medical College. That in the meantime complaint was filed etc. That on an application by the Complainant's son certain case papers of the investigation were issued to him. That the accused was arrested etc. That inspite of overwhelming evidence on record this cognizable case was suppressed and nothing was heard of the case. That the complainant filed an application dated 4/1/2010 and R.T.I. Act and by reply dated 25/01/2010 informed about the registering the offence and the case was under investigation.

That the complainant, vide application dated 31/01/2011, 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.). By letter dated 26/02/2011, the complainant was informed that according to the Police Inspector, Cuncolim Police Station, no offence has been registered at the Cuncolim Police Station vide Cr. No.85/09". That the original copy of the reply was received on 11/03/2011 .

The complainant has pointed out contradiction in the replies etc. in the complaint. In short according to the complainant contradictory, misleading and false information has been furnished to him. Hence the present complaint seeking the above mentioned reliefs.

3. The case of the opponent No.1 is fully set out in the reply. In short it is the case of the opponent No.1 that the Complainant, vide application dated 04/01/2010 requested to furnish the information in respect of his complaint dated 27/11/2009 against Pramod Poly D'Silva and his complaint dated 18/08/2009. By reply dated 25/01/2010 the P.I.O./Opponent No.1 furnished the information. Subsequently, the complainant, vide his application dated 31/01/2011 requested for information w.r.t. FIR No.85/09 U/s.279, 338 I.P.C. r/w 134(a) and 134(b) of M.V. Act pertaining to Cuncolim Police Station. That the P.I.O./Opponent No.1 vide his letter No.SP/S.Goa/Reader/R.T.I./790/2011 dated 26/02/2011 furnished with the information to the complainant that "No offence has been registered at Cuncolim Police Station vide Cr. No.85/09." Being aggrieved with two different replies the complainant filed the present complaint.

That in the index of the case papers filed alongwith the complaint before this Authority, most of the case papers sought by the complainant in his R.T.I. application before P.I.O. were indexed. That the case papers for which the information was sought for, by the complainant were handed over to the complainant by Head Constable, B. No.4009, S. A. Arondekar of Cuncolim Police Station after four days of registration of offence and inspite of this, the complainant sought information with the P.I.O. by his R.T.I. application dated 4/1/2010 when the said information in the form of documents were already available with the complainant. That on 16/06/2011, on receipt of the notice, P.I.O. at Sr. No.1 verified the records and came to the conclusion that at point No.2 of his reply to the complainant dated 25/01/2010 instead of Cr. No.48/09 U/s.279, 338 I.P.C. r/w 134(a) and 134(b) of M.V. Act, Motor Vehicle Accident No.85/09 was inadvertently typed. It is the case of the opponent No.1 that upon realizing this typographical error, the complainant was immediately informed on 17/06/2011 vide letter dated 17/06/2011; that initially motor vehicle accident was registered at Cuncolim Police Station vide No.85/09 and subsequently an offence was registered vide Cr. No.48/09 U/s.279,

338 I.P.C. r/w 134(a) and 134(b) of M.V. Act. After investigation case has been charge sheeted vide No.25/10 dated 22/07/2010 and the same is pending trial in the court of Judicial Magistrate First Class(J.M.F.C.), Margao vide C.C. No.197/S/10/III". That on account of this typographical error no wrongful loss has been caused to the complainant and no wrongful gain has been caused to any person. That there was no malafide intention on the part of P.I.O. to deliberately furnish the wrong information to the complainant as the information sought for from the opponent no.2 came in correct form and forwarded to the Office of the P.I.O. by the A.P.I.O/Sub Divisional Police Officer, Margao also in correct form. That there was no malafide intention of suppressing facts as the information was already in possession of the complainant prior to his applying of said information. It is also the case of opponent No.1 that on perusal of application for information under R.T.I. Act made by the complainant dated 4/1/2010 and the reply given by the P.I.O. on 25/01/2010, the complainant in good faith ought to have sought clarification with regards to crime registered as the information in the form of documents was already in possession of the complainant prior to his applying for the said information. But instead referred another application seeking for information with respect to crime No.85/09. That before filing of his second application dated 31/01/2011 the charge sheet was already filed in the J.M.F.C. on 22/7/2010 vide C. C. No.197/S/2010/III. The opponent No.1 denies the prayers regarding fraud etc as the figment of imagination on the part of the complainant. In short according to the opponent No.1, the complaint filed by the complainant is liable to be dismissed.

4. Heard the arguments. Adv. A. Dessai argued on behalf of the Complainant. Written arguments of the Complainant dated 8/9/2011 are on record. Opponent No.2 also argued in respect of opponent's case.

In short according to the advocate for the complainant the information furnished is false and misleading. He also pointed out

that even the letter dated 17/6/2011 is considered then all the three information become contradictory and misleading. Secondly there is delay in furnishing the information.

During the course of his arguments the respondent No.2 submitted that there is no delay as such. He next submitted that the information furnished is not misleading or false.

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 admitted that application dated 4/1/2011 was filed and reply dated 25/1/2011 was furnished. There is also no dispute that application dated 31/1/2011 was filed and reply dated 26/02/2011 was furnished. There is also no dispute about letter dated 17/6/2011 is concerned. It, therefore, emerges that information is furnished.

The grievance of the complainant is that information furnished is false and secondly there is delay.

6. I shall first refer to the aspect of delay. The only application to be considered is dated 31/01/2011. According to the opponent reply was sent by letter dated 26/02/2011. In the complaint, the complainant states that since nothing was heard within 30 days i.e. 2/3/2011, on 32<sup>nd</sup> day i.e. 4/03/2011 at 10.30 hrs he personally approached the office of P.I.O./Opponent No.1, along with his wife and concerned dealing hand told him that he has already dispatched the original copy by post. That the dealing hand gave him xerox copy of the information free of charge dated 26/2/2011 under the seal and signature of the P.I.O./Opponent No.1 Considering this there is no delay as such. Even assuming there is delay it is hardly of 1/2 days in peculiar circumstances.

Adv. for the complainant contends that if the reply dated 17/6/2011 is considered then there is delay. This will have to be considered only after inquiry under Sec.18(1)(e) is done/ conducted.

7. Adv. for the complainant contends that information furnished is false and misleading. This is disputed by opponent No.2. According to him it is no so and clarified the same.

It is to be noted here that purpose of the R.T.I. Act is per se to furnish information. Of course Complainant has a right to establish that information furnished to him is false, misleading, incorrect etc. but the Complainant has to prove it to counter the opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of R.T.I. Act would be defeated. It is pertinent to note that mandate of R.T.I. Act is to provide information – information correct to the core and it is for the Complainant to establish that what he has received is false and misleading. 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, misleading etc as provided in Sec.18 (1)(e) of the R.T.I. Act.

8. In view of the above, since information is furnished, no intervention of this Commission is required. The Complainant should be given an opportunity to prove that the information is misleading and false etc. The aspect of delay, if any, also to be considered during the inquiry. Hence I pass the following order

### **ORDER**

The complaint is allowed. No intervention of this Commission is required as information is furnished.

The complainant to prove that the information furnished is misleading, false etc.

Further inquiry posted on 21/02/2012 at 10.30 a.m.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 16<sup>th</sup> day of January, 2012.

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