

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 94/SCIC/2011

Shri Edward F. Rodrigues,
H. No. 2/266, Bairo Dongarpura,
Naika Vaddo, Calangute
Rep. by Attorney Mr. Leslie de Souza,
H. No. E/8, 158, Altinho,
Mapusa,
Bardez - Goa

... Complainant.

V/s

Secretary,
Public Information Officer,
Village Panchayat of Calangute,
Calangute,
Bardez – Goa

... Opponent.

Adv. Mr. F. Lobo for Complainant.
Adv. Shri R. N. Jurali for Opponent.

O R D E R

(14.02.2012)

1. The Complainant, Shri Edward F. Rodrigues, has filed the present Complaint praying that the Opponent be issued show cause notice as to why he should not be punished under the law and that Opponent be asked to compensate the Complainant for the loss that this delay has caused the Complainant who has now been forced to approach this forum due to the disobedient act of the Opponent.

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

That the Complainant vide application dated 20.01.2011 sought certain information under the Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer/(PIO)/Opponent. That since the Opponent failed to respond the Complainant filed an Appeal before the Block Development Officer, Bardez/First Appellate Authority (FAA). That FAA by Order dated 18.02.2011 ordered to provide the information to the Complainant. That the Opponent has failed to obey the orders of the BDO and has not responded even after the reminder was given to him on 30.04.2011 by the

Complainant. That the Opponent has misbehaved with complete disregard to the order of his superior officer and is, therefore, guilty of act of insubordination. Being aggrieved by the said act the Complainant has preferred the present Complaint.

3. Heard the arguments. The learned Adv. Shri F. Lobo for the Complainant and the learned Adv. Shri R. N. Jurali for the Opponent.

4. 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 by application dated 20.01.2011 the Complainant sought certain information. The information was in respect of construction licence of ground floor of Chhaya M. Sheldekar or Capt. M. A. Sheldekar. It appears that no information was furnished. Hence the Complainant preferred an appeal before the First Appellate Authority. By Order dated 18.04.2011 the F.A.A. observed that neither reply nor information is furnished and further directed the Opponent/P.I.O. to furnish the complete information as per the request of the Appellant within 10 days.

It is the contention of the Advocate for Complainant that even after the order of F.A.A. no information is furnished.

5. According to the Advocate for the Opponent the Complainant/Applicant is not a citizen of India.

No doubt under Section 3 of the RTI Act only a citizen of India is entitled for information. However the same is to be considered right from beginning that is to say from the stage of P.I.O. The reply of PIO within 30 days is not on record. First Appellate Authority also ordered to furnish the information. Besides the Opponent has also furnished the information partly and therefore there is no harm to provide the same. PIO should note that such issues must be taken at the first instance and the party should be informed of the same.

I must say that since 'citizens' alone are entitled to obtain information under provisions of Section 3 of the Act, a 'person' desiring to have the information should necessarily be a 'citizen' of India.

I have perused some rulings of Central Information Commission on the point.

In *Shakuntala Rani Mahendra v/s. Ministry of Home Affairs (M.H.A)* the gist of the order is as under:-

“ The contention of respondent in his reply to the initial application is correct as per the R.T.I. Act, 2005. Under Section 3 of the Act “all citizens shall have the right to information. In her original application Mrs. Mahendra has made clear that she is a British citizen by stating that “the Applicant obtained the British Passport No. 451502550 of 25.10.2001 which is valid upto 25.10.2010.”

Nevertheless Shri Shivaraman has now submitted a detail answer to the questions of Mrs. Mahendra, a copy of which may now be sent to her. This would have been best provided to appellant at the initial stage merely as a common courtesy. It might be noted that it is only an Indian citizen who has a “right” to information under the Act. This does not imply that any other person is ineligible to receive any information whatever. However, the appeal has no merit under the RTI Act and is hereby dismissed.”

In another case where the CPIO or Appellate Authority has not taken the plea of citizenship while denying the information in full or in partial manner, the Commission will not on its own reject the application/appeal merely on the ground that the applicant or the Appellant is not a citizen.

6. Now it is to be seen whether the information is furnished. According to the Advocate for the Complainant house number issued, etc. is not furnished.

It is seen that by letter dated 22.10.2011 that house number is given and also year. Of course application requesting house number is not traceable. Copies of resolution also given.

It appears that information is furnished.

7. Now it is to be seen whether there is any delay in furnishing the information.

According to the Advocate for the Complainant there is inordinate delay in furnishing information. This is disputed by Advocate for the Opponent. According to him there is no delay and even if there is some delay the same is

to be condoned or overlooked as Complainant is not a citizen of India. To my mind the Opponent PIO must be given an opportunity to explain the same in the factual matrix of this case.

8. In view of all the above, since information is furnished no intervention of this Commission is required. The Opponent/PIO is to be heard on the aspect of delay. Hence, I pass the following Order:-

ORDER

Complaint is allowed. No intervention of this Commission is required since information is furnished.

Issue notice under Section 20(1) of the Right to Information Act, 2005 to the Opponent/PIO 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 27.03.2012. Public Information Officer/Opponent shall appear for hearing.

Further inquiry posted on 27.03.2012 at 10:30 a.m.

The Complaint is disposed off.

Pronounced in the Commission on this 14th day of February, 2012.

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