

**GOA STATE INFORMATION COMMISSION**  
**AT PANAJI**  
**CORAM: Shri M. S. Keny, State Chief Information Commissioner**

**Complaint No.120/SCIC/2011**

Shri Mohan Vithal Korgaonkar,  
H. No. 95, Bordem,  
Bicholim – Goa ...Complainant.

V/s

- 1)The Chief Registrar of Births & Deaths,  
Public Information Officer,  
Office of the Chief Registrar of Births  
and Deaths, Junta House,  
Panaji – Goa ... Opponent No. 1.
- 2) The Chief Officer,  
Public Information Officer,  
Bicholim Municipal Council,  
Bicholim – Goa ... Opponent No. 2.

Adv. Shri V. Porob for Complainant.  
Opponent No. 1 in person.  
Adv. Shri A. Ghantwal for Opponent No. 2.

**O R D E R**

(17.02.2012)

1. The Complainant, Shri Mohan Vithal Korgaonkar, has filed the present Complaint praying that the Opponent be directed to provide the required information sought by the Complainant; that Opponent be directed to issue certified copies of all the documents sought by the Complainant; that the Opponent be punished under Service Rules for transferring the application of the Complainant and that penalty be imposed on the Opponent for failure to provide required information sought by the Complainant.

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

That the Complainant, vide an application dated 02.06.2011 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Opponent No. 1. That the Opponent No. 1 failed to furnish the requisite/required information sought by the Complainant. That on the Tuor copy of Death Certificate of Smt. Savitri Rawaloo Pal on which at Sr. No. 63 it is mentioned that the name of Savitri Pal has been changed/corrected to Caxi Ploina as per letter No. DPSP/VII/RBD/6/Vol.II/84 dated 13.01.1984 from the Chief Registrar of Births

and Deaths. That due to the said endorsement and to check the copy of letter dated 13.01.1984 issued by Civil Registrar of Births and Deaths, the Complainant had applied to the Opponent under RTI Act for issue of certified copy of the said letter. That since it was not available in their office record, the Opponent No. 1 transferred the said matter to the PIO of Bicholim Municipal Council/Opponent No. 2. That the Opponent also did not provide other documents sought by the Complainant in respect to the change in name on the death certificate of Smt. Savitri Pal. It is the case of the Complainant that rather than providing the required information sought by the Complainant vide application dated 02.06.2011 the Opponent arbitrarily, in order to avoid providing the information sought by the Complainant, transferred the said application to the Opponent No. 2. That the Opponent has intentionally with malafide intention and in order to avoid providing the required information has transferred the application to Opponent No. 2. It is further the case of the Complainant that all documents sought by the Complainant are in possession of Opponent No. 1 and as such Opponent No. 1 is bound to furnish the said documents to the Complainant. Being aggrieved the Complainant has filed the present Complaint.

3. The case of the Opponent No. 2 has been fully set out in the reply which is on record. In short, it is the case of Opponent No. 2 that the proceedings initiated against the Opponent No. 2 is bad in law, not maintainable, so much so that Opponent No. 2 is not the proper and necessary party for deciding the above referred Complaint and as such the name of the Opponent is liable to be struck off. That the Opponent No. 2 denies as false that some mischief is being played and some manipulation has been done with the name of Smt. Savitri Rawaloo Pal by changing as Caxi Polin on the true copy of the Death Certificate in question. That the change in question has come to be done by virtue of said documents made reference to by the Complainant in the said Para 4. In short Opponent No. 2 denies the case of the Complainant as set out in the Complaint. That there is no cause of action as against Opponent No.2. According to Opponent No. 2 Complainant is liable to be dismissed.

4. Heard the arguments. The learned Adv. Shri V. Porob argued on behalf of the Complainant. Opponent No. 1 argued in person and Adv. Shri A. Ghantwal argued on behalf of Opponent No. 2.

Advocate for Complainant referred in detail to the facts of the case as well as the purpose for which information was required. He referred to the aspect of manipulation, etc. According to him all documents mentioned exist with the Opponents. He next submitted that the file should be in the office of Opponent No. 1. According to him when the file is sent all documents are sent. He next submitted that Opponent No. 2 has not given any reply till date. When correction is to be done, one file containing all details is sent. He next submitted that Opponent No. 1 should have made the transfer within five days and he submitted that Opponent No. 1 be seriously punished for not transferring within five days and that Opponent No. 2 also be punished for not furnishing information.

During the course of his arguments Opponent No. 1 submitted that the documents are not traceable in their office and that they tried to search thoroughly and that is why it took twenty five days. He next submitted that Opponent No. 2 is the custodian of records. He also submitted that he has no power to carry out any change. He referred to Section 15 and 21 of Registration of Births and Deaths Act, 1969. He also submitted that they are neither correcting nor passing the order. Opponent No. 1 submitted that no First Appeal is preferred. He also submitted that Chief Magistrate is the Appellate Authority and not PIO. Opponent no. 1 next submitted that apart from all this, document is of 1984 which is old.

The learned Adv. Shri Ghantwal submitted that they searched their records and the relevant information/documents are not available in their record.

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 by letter dated 02.06.2011 the Complainant sought certain information. The information sought was a letter dated 13.01.1984 addressed to the Registrar of Births and Deaths, Bicholim Municipal Council with regard to change of name of one Savitri Rawaloo Pal and also all the related documents and application. By reply dated 01.07.2011 Opponent No. 1 transferred the said application to Opponent No. 2 under Section 6(3) of RTI Act. In the said reply the Opponent also mentioned that the information sought by the applicant towards the correspondence dated 13.01.1984 is not in their office and that

however the said letter addressed to the office of Opponent No. 2 happens to be a record of their office for use in future.

However, it is seen from the record that there is a reply dated 01.07.2011 addressed to the Complainant stating that the said letter cannot be issued since the record is old it is not possible. Advocate for Complainant admits that application under Section 6(3) ought to have been transferred within five days. According to Opponent No. 1 they took a diligent search and when it was found that the same was not with them, then the application was transferred to Opponent No. 2. Normally, under RTI such a transfer should be as early as possible as but not later than five days. In any case the delay in sending appears to be out of non appreciation of the concerned provision. Besides, as per the say of Opponent No. 1 they had taken proper search.

6. Rule 15 of the Registration of Births and Deaths, 1969 is as under:-

**“15. Correction or cancellation of entry in the register of births and death** – If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.”

**“Rule 21. Power of Registrar to obtain information regarding birth or death** – The Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requisition.”

As per rule 15 a suitable entry is to be made in the margin without any alteration of original entry and also the same is to be signed. I have seen entry at Sr. No. 63. Original entry appears to have been cancelled and correction is not done in the margin. According to Opponent No. 1 they have not done so and that Chief Registrar does not have such a power.

7. In any case according to Opponent No. 1 and 2 the information is not available. No doubt under RTI Act information available on record is to be furnished. RTI Act can be invoked for access to permissible information. I have perused some of the rulings of Central Information Commission on the point. The rule of law now crystallized by various rulings is that only available information is to be furnished. There is no obligation on the PIO to furnish non-existent information.

7. In the case before me the Opponent No. 2 is generally the custodian of documents. The documents regarding Births and Deaths are to be preserved and that too properly. No doubt the letter in question is an old record. However, the same is also an important record. It appears from the arguments of Advocate for Appellant that documents are deliberately made to disappear. RTI Act is made for transparency and accountability. Only with a view to clear doubt I am inclined to hold proper inquiry and bring to book the delinquent officer/official, if any. In my view higher authority to hold such an inquiry.

8. In view of all the above, I pass the following Order:-

### **ORDER**

No intervention of this Commission is required since information is not available. The Director of Municipal Administration, through himself or an officer duly appointed by him to conduct an inquiry regarding missing of the file/document and to fix responsibility for such misplacement/missing of the document/information and initiate action against the delinquent officer/official, including lodging of FIR and/or be suitably penalized as per law.

Inquiry to be completed as early as possible, preferably within 3 months and report compliance. A copy of the Order be sent to the Director of Municipal Administration, Panaji – Goa.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 17<sup>th</sup> day of February, 2012.

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

