

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No.55/SCIC/2011**

Shri Nelito Fortes Gomes,  
R/o.Villa Fortes Gomes,  
127, Demonaique, Orlim,  
Salcete, Goa - 403724

... Complainant

V/s.

Dr. (Mrs.) Pratima Thali,  
State Tuberculosis Officer (STO-Goa),  
& Public Information Officer (PIO)  
Revised National Tuberculosis Control Programme,  
Directorate of Health Services,  
18<sup>th</sup> June Road,  
Providoria Bldg.,  
Panaji – Goa – 403 001

... Opponent

Complainant absent.

Adv. N. G. Kamat for Complainant present

Opponent absent

Adv. V. Sardesai for opponent present.

**ORDER**  
(13/02/2012)

1. The Complainant, Shri Nelito Fortes Gomes, has filed the present complaint praying that this Commission be pleased to direct impartial inquiry how the respondent as a public servant furnished forge and fabricated evidence to the complainant under R.T.I. Act as genuine; for a direction to fix responsibilities on all responsible officers found guilty and initiate action by filing F.I.R. and suitably penalize them as per the law and that disciplinary action be initiated against the responsible under service rules as applicable.

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

That the complainant vide application dated 15/11/2010 sought certain information under Right to Information Act, 2005 ('R.T.I.' Act for short) from the opponent/Public Information Officer('P.I.O.'). That the opponent furnished incomplete information by letter dated 4/12/2010 in response to the complainant's letter dated 15/11/2010. That by letter dated 10/12/2010 the complainant brought to the notice of respondent about furnishing of incomplete information and requested respondent to furnish complete particulars of the information. That by letter dated 28/12/2010, the respondent furnished forged documents as the respondent had no record of the information in question asked by the complainant. That by letter dated 3/11/2011, the complainant once again brought to the notice of the opponent, the furnishing of incomplete information and requested the opponent to substantiate in detail by furnishing crucial particulars of original working sheets of assessment of qualification, experience and orals drawn by the Principal Panel Committee Members as on the date of interview in the reply forthwith. That by letter dated 1/2/2011, the opponent once again dishonestly prepared and furnished forged documents. That being shocked and aggrieved as a result of openly furnished forged documents, the complainant has filed the present complaint on the various grounds as set out in the 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 present complaint filed by the complainant is misconceived, baseless, devoid of merits and therefore has to be dismissed on this count itself. That present complaint is filed with the intention to harass the opponent. That the opponent has taken over the charge as the State TB Officer w.e.f. 4/11/2010 and promoted as S.T.O. w.e.f. 8/12/2010. That all the information/documents sought by the petitioner under R.T.I. dated 15/11/2010, 10/12/2010 and 4/2/2011 have been furnished well within time frame of the R.T.I. Act. That all the documents which were furnished to the complainant were available in the office. That whenever the

complainant has called for any specific documents, the same were furnished to him providing the relevant information and within time frame. That the allegations which were alleged by the complainant in the complaint stating that the documents are forged is totally wrong as there is no substance to the allegations made by the complainant. That all the records asked for were available in the office files and there was no interference by any member whatsoever as stated by the complainant. That as regards the selection process is concerned, selection is done by the selection panel comprising of five senior officers of Directorate. That the post being contractual in nature under State TB society, the same is approved by the Secretary (Health) and the Executive Committee of the society. That as per the records available the complainant was prosecuted for attempt to rape and was behind the bars for five months i.e. 11/3/2010 to the end of August 2010 and this fact was informed by his mother herself. That the complainant was on contractual period for one year and therefore his services came to be terminated on 11/03/2010. That the workload was increasing and there was need for official to clear all the pending work urgently. That as no suitable candidate with essential qualification was available, Smt. Neelam Chodankar the official who also attended interview was appointed on the basis of experience as she had all the requirements of taking care of job and responsibilities. That Smt. Neelam Chodankar was working with the IDSP division and State Health Society which is also a sub-unit of State Health Society. Thus Smt. Neelam Chodankar was appointed and her services were called for a period of one year. That as decided earlier, the post was for a period of one year and therefore it was re-advertised on 11/05/2011, interviews were held and selection was done. That the candidates selected now has essential qualification as well as experience as she is currently working with State Health Society, IDPS Division. It is the case of the opponent that the record keeping and documentation in the office of the opponent is now even better then during the service period of the complainant. That the allegations made by the complainant towards opponent

are without any documentary proof, false and baseless and therefore complaint is liable to be dismissed.

Rejoinder of the complainant denying the contents of the reply which are inconsistent with or contrary to what is stated in the complaint are denied. The detail rejoinder is on record.

4. Heard the arguments. Ld. Adv. Shri N. Kamat argued on behalf of the complainant and Adv. Shri V. Sardesai argued on behalf of the opponent.

Adv. for the complainant submitted that false information has been furnished. He referred to the facts of the case in detail. He also submitted about the termination of services of the complainant about interviews held in detail. He also referred to the statement of marks, file noting etc. According to him computerized marks were given and that all the documents are fabricated and documents supplied are not what is sought. According to him information furnished is false, incomplete and misleading.

During the course of arguments advocate for the opponent submitted that the complaint is not maintainable. According to him entire information is furnished. He also referred to the page 3 of the complaint and relied on two judgements the copies of which are on record.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the advocates of the parties and also considered the rulings on which Adv. for the opponent placed reliance.

It is not disputed that the complainant sought information from the P.I.O./Opponent. It is also not in dispute that information is furnished. During the course of arguments also advocates for the parties submitted that information is furnished.

The only grievance of the Advocate for the complainant is that information furnished is false, fabricated, incorrect and misleading.

6. Advocate for the complainant submitted that the information furnished is fabricated, false, incorrect, misleading etc. This is disputed by the Adv. for the opponent. According to him the information furnished is true and correct as available in the records of the case.

7. It is to be noted here that the 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, incorrect, misleading etc. but 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 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 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 Sec.18 (1)(e) of the R.T.I. Act.

According to Adv. for complainant even Sec.18(1)(f) is also attracted. The same can also be seen during the course of inquiry.

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 false, incorrect, misleading etc. Hence I pass the following order.:-

**ORDER**

The complaint is allowed. The complainant to prove that information furnished is false, incorrect, incomplete etc.

Further inquiry posted on **28/03/2012 at 3.00 pm.**

The complaint is accordingly disposed off.

Pronounced in the Commission on this 13<sup>th</sup> day of February, 2012.

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