

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Complaint No. 436-SIC-2010 in
Comp 54-SCIC-2009 & 2-SCIC-2009

Shri Uday A.C. Priolkar,
R/o H.No. C5/55,
Mala Panaji-Goa

...Complainant

V/s

State Public Information Officer,
Commissioner of Corporation of City of Panaji.

....Opponent

Complainant in person
Opponent absent
Adv. J. Ramayya for Opponent.

ORDER

(29-11-2011)

1. The Complainant, Shri Uday A. C. Priolkar, has filed the present Complaint, praying that the Hon'ble Authority be pleased to inquire into the complaint, that disciplinary action against Respondent be initiated in terms of service rules as provided in section 20(2), that P.I.O. be directed to pay compensation to the complainant for failure to comply with the order passed by this authority within the stipulated time and causing physical and mental torture and that contempt proceedings be initiated against the P.I.O.

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

That the complainant filed an application under section 18(1) of the Right to Information Act 2005 (R.T.I Act for short) before the Hon'ble Authority. That the Hon'ble Authority was pleased to pass order on 25-3-2010 directing the P.I.O. to clarify above facts with evidence on the position of the pipeline vis-à-vis the wall to the complainant within a period of seven days from receipt of the order. That the public information Officer failed to comply with order passed by Hon'ble authority within a stipulated time and therefore the present complaint is filed. That the complainant by his two letters dated 12/03/2009 and 17/03/3009 had requested for the information as mentioned therein. That the Opponent failed to provide the information

contained in the letter dated 12/03/2010 within prescribed period. Hence the complainant preferred a complaint bearing No. 2/SCIC/2009. That notice was issued, the Opponent appeared filed reply and submitted that information is furnished vide letter dated 2/4/2009. It is the case of the complainant that information provided to both the application i.e application dated 12/03/2009 and 17/03/2009 by a common reply dated 2/4/2009. That the complainant received the said information on 17/04/2009 and submitted before Commission that he does not wish to proceed with the case and accordingly complaint was disposed off by order dated 19/05/2009. It is further the case of the complainant that the Municipal Engineer addressed a letter dated 21/07/2009 to the complainant referring to letter dated 17/03/2009 of the complainant and stated therein that the office of the CCP had issued NOC to the Asst. Engineer, Sub-Div II WD III (PHE-N), Tonca, Caranzallem Goa. That the office of CCP by their letter dated 2/4/2009 addressed to the complainant has provided false information at serial No.4 IInd column i.e it is stated that “No such NOC is issued”. That on receipt of the request made under RTI Act. P.I.O. has to provide the information and not the Municipal Engineer, who has no authority. Hence the present complaint.

3. The Opponent did not file any reply, however, his Advocate advanced arguments.

4. Heard the arguments. The complainant argued in person and Adv. Shri J. Ramayya argued behalf of the Opponent. The Complainant also filed written arguments which are on record.

Complainant referred to the facts of the case as well as photographs.

During the course of his arguments Adv. for the Opponent submitted that information is provided. According to him pipeline is on the retaining wall as per the photographs enclosed. It is not along with but on the retaining wall. He referred to para 3 of the judgment dated 25/03/2010.

In reply the complainant submitted that the initial reply was that NOC was not granted and later on permission was granted. He also submitted that photograph was furnished.

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 application dated 12/03/2009 was disposed by order dated 19/05/2009 passed in complaint no.2/SCIC/2009. It is seen that by application dated 12/03/2009 the complainant sought the following information.

1. Copy of reply showcause No. F-5/CCP/ENG/SCN/46/2007-08/5960 dated 27/01/2009 by Smt. Pramodini V. Chari R/o H.No.C-5/54, Altinho, Panaji-Goa.
2. Whether demolition order is passed of your show cause notice no. FS/CCP/ENG/SCN/46/2007-08/5960 dated 27/01/209 against Pramodini V. Chari, H.No. C-5/54, Altinho Panaji for illegal construction of Toilet room and septic Tank of an Government Land chalta No.105, P.T.Sheet No..74, City Survey Panaji under section 269 of the Corporation of the city of Panaji Act 2002 if not why.

So it appears that as far as information is concerned in respect of this application is furnished.

By application dated 17/03/2009 the following information was sought:-

1. Copy of order passed under 94-A of public Health Act to release sewage connection to H. No.C-5/54, Altinho, Panaji of Smt. Pramodini V. Chari.
2. Whether permission is granted to Assistant Engineer Sewage treatment, Plant, Tonca Caranzalem to laid Sewage pipeline along with retaining wall of houses of undersigned on Chalta No.136 P.T. Sheet, 74 city

survey Panaji, belong to Shri Uday A. Chari and family members. If yes then under what provision of law.

In respect of point No.2 it was replied that no such NOC is issued. However Municipal Engineer by letter dated 21/07/2009 informed the Complainant that as per para 2 of the application dated 17/03/2009. It is to clarify that their office has issued NOC to the Assistant Engineer sub-Div II, WD III (PHE-N), Tonca Caranzalem Goa to lay sewerage line on retaining wall which is constructed by this office and not along retaining wall of his house.

It appears that complaint No. 54/SCIC/2009 in complaint no.2/SCIC/2009 was filed. Order dated 25/03/2010 was passed. In para 4 of the order it is observed as under:

“4. Since the letter dated 21/07/209 originated from the Municipal Engineer of Public Authority of Corporation of City of Panaji and pertains to the information sought under RTI Act at Sr. no. 4 of the request dated 12/03/2009 and disposed by Commission by order dated 19/05/2009 passed in complaint No.2/SCIC/2009 and since the complainant showed some photographs indicating the pipeline along the wall, the Opponent to clarify about these facts with evidence on the position of the pipeline vis a vis the wall, to the complainant within the period of seven days from the receipt of this order”.

Thereafter the present complaint is filed.

6. Looking at the factual backdrop of this case I feel that the mater needs some inquiry as to whether false information was furnished or not, whether information was so as to mislead. The Complainant should be given an opportunity to prove the same so as to counter the opponents claim. The mandate of R.T.I. Act is to provide information correct to the core, however it is for the complainant to prove that what he received is false, misleading etc. Only with this view in mind. I am of the opinion that complainant should be

given an opportunity to prove that information furnished is false, misleading as provided under section 18 (1) (e) of the R.T.I. Act.

7. In view of all the above I am of the opinion that Complainant should be given opportunity to prove that information furnished is false, misleading etc.

Hence I pass the following orders;

ORDER

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

Further inquiry posted on 02-02-2012 at 10.30 a.m.

Pronounced in the Commission on this 29th day of November, 2011.

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