

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

Complaint No.128/SIC/2011

Shri Cedric Lobo,
1-C, Shivkrupa,
Opp. Don Bosco School,
Panjim – Goa

...Complainant.

V/s

Subodh Prabhu,
Public Information Officer,
Secretary,
Village Panchayat of Calangute,
Calangute – Goa

... Opponent.

Complainant in person
Adv. Shri. R. N. Jurali for Opponent.

O R D E R
(21.02.2012)

1. The Complainant, Shri Cedric Lobo, has filed the present Complaint praying that penalty of Rs.25,000/- be imposed on the Public Information Officer of Village Panchayat Calangute, Shri Subodh Prabhu for knowingly giving false/incorrect information and to recommend disciplinary proceedings against Public Information Officer (PIO) of Village Panchayat Calangute, Shri Subodh Prabhu under Service Rules applicable to him for knowingly giving false/incorrect information for directly intimidating and pressurizing him to withdraw his penalty case against him and refraining from exercising his right under RTI Act.

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

That the Complainant had filed an application on 13.05.2010 seeking certain information under Right To Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Opponent of Village Panchayat Calangute, requesting information regarding the tenure of Mr. Subodh Prabhu as PIO of Village Panchayat, Calangute. That in reply dated 05.06.2010 the PIO stated that the tenure of Shri Subodh Prabhu as PIO was from 16.06.2009 till this date. It is the case of the Complainant that during the

case hearings of penalty Case No. 35/2011 in Appeal No. 86/SIC/2010 before Goa State Information Commission, Shri Subodh Prabhu in his replies stated that he was on election duty from 2nd week of February, 2010 till first week of March, 2010. That even in his affidavit on oath dated 12.08.2011 solemnly affirmed before Notary G.S. Kubal, the PIO claimed that the duties of PIO were discharged by another Secretary. That on making inquiries with BDO, Bardez and from the annexure provided by the PIO, the Complainant realized only on 12.08.2011 that the reply dated 05.06.2010 was incorrect/false information. That the Complainant realized this after the PIO submitted his affidavit under oath alongwith photocopies of certain documents and hence the present Complaint under section 18 of the RTI Act for giving incorrect/false information in his RTI reply dated 05.06.2010. The Complainant has also filed a complaint against Shri Subodh Prabhu, PIO and his wife for intimidating and pressurizing him from exercising his right under RTI Act, 2005.

3. The Opponent resists the Complaint and his reply is on record. It is the case of the Opponent that the Complainant on 13.05.2010 requested information regarding tenure of Shri Subodh Prabhu as PIO of Village Panchayat, Calangute. That the Opponent informed the Complainant vide letter dated 05.06.2010 stating that the tenure of said Shri Subodh Prabhu is from 16.06.2009 till this date. It is the case of the Opponent that additional duty of election was allotted to him from 2nd week of February till first week of March 2010. That he was not transferred to the other Village Panchayats from 2nd week of February 2010 till first week of March 2010. But he was allotted additional work of election duty. That during this period Government had given charge of Village Panchayat Calangute to newly appointed V.P. Secretary in his place to carry out day-to-day work of V.P. Calangute. That the BDO had instructed him to help newly posted Panchayat Secretary and hence he was visiting Village Panchayat whenever he was getting time. That in view of this it is true that information given to the Complainant was correct. It is further the case of the Opponent that his wife is neighbour of the Complainant and called them to visit his place to discuss about penalty case so that he alongwith his wife visited the house. That they only requested him to withdraw the penalty case if he is willing. The Opponent denies about intimidation, pressurizing, etc. In short, according to the Opponent he has not committed any offence under

section 18 of the RTI Act and that the question of imposing penalty of Rs.25,000/- does not arise. According to the Opponent Complaint is liable to be dismissed.

4. Heard the arguments. The Complainant argued in person. The Learned Adv. Shri R. N. Jurali argued on behalf of the Opponent. The Complainant referred to the facts of the case in detail. He referred to the application dated 13.05.2010, reply furnished. He then referred to the relieving order dated 12.02.2010, charge list dated 04.03.2010 and various other documents on record. He also mentioned about penalty case, affidavit filed therein, etc. in detail. According to him for about one month or so the Complainant was not the PIO and that the information furnished to him is false and misleading information. According to him the Opponent is in the habit of furnishing false and misleading information and that he should be penalized.

During the course of his arguments Adv. Shri Jurali submitted that Opponent was not transferred to any other Panchayat nor he was posted temporarily to any Panchayat however, additional work was given to him. Though he was for sometime out of Panchayat yet he continued to be the PIO. According to him the Complaint is liable to be dismissed.

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 application dated 13.05.2010 the Complainant sought certain information. The information consisted of 4 items, i.e. from Sr. No. 1 to 4. The first question being about the tenure of Shri Subodh Prabh who was holding the post of PIO in the Village Panchayat, Calangute during the past two years. By reply dated 05.06.2010 the PIO, Shri Subodh V. Prabhu himself furnished the information stating that he was PIO in Village Panchayat Calangute, from 16.06.2009 till that date. With regard to other items 2 to 4 it was informed that he could not answer the said questions. I have also perused the records produced by the Complainant including affidavit filed as well as relieving order about handing over charge, etc. It is not in dispute that Subodh Prabhu was the PIO. It is also not in dispute that for some time he was given additional work and during his absence one Shri Kambli was acting as PIO. It is seen that PIO joined office on

03.03.2010 after finishing the work allotted to him. It was only on 13.05.2010 that the information was sought when Subodh Prabhu himself was the PIO and the reply that was given was on 05.06.2010. No doubt reply does not say the period that he was posted for additional work. The only thing to be seen is whether this constitutes false or misleading evidence. If one goes by the letter itself then the Complainant is right. But if we peruse the spirit behind the same, I am afraid, the Opponent is right. It is to be noted that the PIO was not transferred nor he was posted in a different Panchayat but only was given additional work. On account of that additional work he was temporarily out from the Village Panchayat.

6. There is absolutely no doubt that information that is given must be true and as held by Public Authority. It is not in dispute that for about 2-3 weeks the Opponent was not on duty but was given some other work. No doubt this should have been mentioned. In any case benefit is to be given to the Opponent on that count. However, while furnishing information the PIO should have mentioned this fact. Strictly under RTI the action of the PIO amounts to giving incorrect information. However considering the fact that he was not transferred or posted elsewhere, I do not find that the same amounts to malafide withholding of information, knowingly giving incorrect and misleading information to the Complainant. However, the PIO is warned that such things will not be tolerated in future and PIO should see that information as held is to be furnished correctly. PIO should apply mind in furnishing reply/information.

7. Another aspect is the present Complaint is also against the said PIO and his wife for intimidating and pressurizing the Complainant from exercising his rights under RTI Act. The Complainant also speaks of inducement. The Opponent in his reply speaks of police case filed in Panaji police station and police station refused to accept his complaint, etc.

In this connection I must say that Commission as statutory body does not have the powers to investigate allegations against offences under the Indian Penal Code or take action under the Code of Criminal Procedure. Even otherwise it appears that police case was filed. In any case, parties to see that this is not in the true spirit of RTI Act. An information seeker has every right to

seek information in terms of RTI Act and his right should not be trampled upon so as to discourage him

8. In view of all the above, I am of the opinion that PIO should be careful in furnishing true and correct information. Hence, I pass the following Order.

ORDER

No intervention of this Commission is required.

With the above observations the Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 21st day of February, 2012.

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