

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.178/SCIC/2011

Smt. Manda D. Volvoikar,
R/o.17/A, Patto Colony,
Panaji – Goa

... Complainant

V/s

1. The Public Information Officer,
Medical Superintendent,
Goa Medical College,
Govt. of Goa,
Bambolim-Goa
2. The First Appellate Authority,
O/o.Dean,
Goa Medical College,
Bambolim-Goa

... Opponent/respondent

Complainant in person.
Opponent No.1 present.
Opponent No.2 absent.

ORDER
(30/04/2012)

1. The Complainant, Smt. Manda D. Volvoikar, has filed the present complaint praying that the respondent be directed to furnish the information sought by the complainant; that respondent No.1 be directed to pay the complainant, cost of Rs.250/- per day till the complainant receives the information sought by her in terms of R.T.I. Act, 2005; to initiate disciplinary action against the respondent in terms of Service Rules applicable to the respondent as per Section 20(2) of R.T.I. Act, 2005 and that compensation be granted to the Complainant.

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

That the complainant vide application dated 28/7/2011 sought certain information under Right to Information Act, 2005

(R.T.I. Act for short) from Public Information Officer(P.I.O.)/respondent No.1. That the P.I.O. vide letter dated 12/8/2011 furnished the information which was received by the complainant on 27/8/2011. That the information provided to her in Hurt Certificate dated 29/5/2011 at column No.6 states that “opinion is reserved” and further informed that Hurt Certificate will be issued by Ophthalmology Department, (Dr. Jaya Karmali) Assistant Lecturer in Casualty, Goa Medical College, Bambolim. That the action of Public Information Officer(P.I.O.) is against the violation of R.T.I. Act as P.I.O. should have furnished the information from the concerned section and should have furnished the same to her U/s.5(4)(3) as Assistant Lecturer is from Casualty Department of Goa Medical College, Bambolim. Being not satisfied, the complainant filed first appeal before First Appellate Authority(F.A.A.) on 27/9/2011 against the order of P.I.O. That the F.A.A. did not take any cognizance of the appeal within stipulated time. Hence the complainant has filed the present complaint on various grounds which are set out in the complaint.

3. In pursuance of the notice issued, the P.I.O. appeared. In his brief reply the P.I.O. submitted that the information sought by the complainant under R.T.I. has already been issued. As regards the point No.3, it is the case of the respondent No.1 that P.I.O. can only collect the information from the sections and issue the same to the applicant and cannot generate information of its own. It is further the case of the respondent No.1 that as per the information of the department of Ophthalmology “no final certificate” has been issued by the department.

It is the case of the respondent No.2 that the complainant has not made any letter and nothing was addressed to the respondent No.2 who is First Appellate Authority. The respondent No.2 prays that he may be exempted from this matter regarding hearing of the complainant.

4. Heard the complainant. The opponent did not remain present on the day of argument. In any case, I am proceeding on the basis of records. It is seen that by application dated 28/7/2011, the complainant sought certain information. The information consisted of three points/items as under :

- “1. Type of injuries sustained by me
2. Number of injuries sustained by me.
3. Nature of injuries (whether simple or grievous hurt)

By reply dated 12/8/2011 the P.I.O./respondent No.1 informed the complainant that information desired by her is ready and called her to collect from the office by paying an amount of Rs.2/-. It appears that hurt certificate was furnished. Regarding the nature of injuries, certificate mentioned opinion reserved. Being not satisfied, the complainant preferred appeal before First Appellate Authority, (F.A.A.) Office of the Dean, Goa Medical College, Bambolim. The appeal was filed on 27/9/2011. There is an endorsement in token of having received the appeal. The endorsement is of Goa Medical College, Bambolim, Goa.

According to the opponent No.2, nothing was addressed to the F.A.A. But the copy of appeal memo and endorsement thereon shows that the appeal was filed on 27/9/2011. In any case in R.T.I. matters, the authorities should be diligent and a casual approach creates problems. Hope the F.A.A. will take necessary steps in that direction in future. It is to be noted that R.T.I. is a time bound programme. Appeal is to be filed within 30 days and is also to be disposed within 30 days or 45 days with reasons.

5 Now coming to the aspect of information. The complainant, as mentioned above, sought information on 3 points. Point No.1 and 2 furnished i.e. hurt certificate given. Item No.3 i.e. “3.Nature of injury (whether simple or grievous hurt)” is not furnished. Hurt Certificate shows as “opinion reserved.”

Respondent No.1 in his reply states “as regards point No.3, P.I.O. can only collect the information from the sections and issue the same to the applicant and cannot generate the information of its own.”

It is to be noted here that P.I.O. may refer the request U/s.5(4) to the officers who hold information. In case the information is with another P.I.O. then aid of Sec.6(3) can be taken. The objective behind Sec.6(3) is perhaps to lessen the travails of an information seeker, lest he is lost in the labyrinth of procedural technicalities.

6. I have perused the application seeking the information and also information that is furnished. To my mind the P.I.O. should furnish the information properly as asked by the party concerned. The way information furnished it is not clear which item is answered the way it was asked. It is not open to the P.I.O. to provide the information in whatever form he wishes, but instead he should see what applicant has asked and as to how he would like the information to be provided where the information sought in question wise a response also should be point wise in response to the questions. If this method was followed it would have clarified the said points. The P.I.O. should provide information accordingly.

7. Apart from this, it is a settled position of law that medical information of a patient is liable to be furnished to the patient and/or the immediate family member of the patient upon production of proper authorization.

It is pertinent to note here that in Mohit Jhangiani V/s DGHS (CIC/AD/A/2009(001291 decided on 28/10/2009) it is observed as under :-

“In these circumstances it is pertinent to remind the public authority that in a landmark order, the National Consumer Disputes Redressal Commission pursuant to the

decision of the Mumbai High Court has made it mandatory for all medical practitioners including private hospitals across the country to provide the entire medical records of a patient to him/her or the authorized nominee or legal authorities concerned within 72 hours of the demand and

I am also told that Medical Council of India issued circular to that effect to Medical Practitioners and hospitals.

8. Regarding delay. The information was sought on 28/7/2011. Reply is dated 12/8/2011. According to the Complainant she received the same on 27/8/2011. This is in time. Since reply is in time, the question of penalty does not arise.

9. In view of all the above, I pass the following order.

ORDER

The complaint is allowed. The opponent No.1 is hereby directed to furnish the information, in proper form, to the complainant as sought by her, vide her application dated 28/7/2011, within 20 days from the date of receipt of this order.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 30th day of April, 2012.

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