

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.124/SIC/2010

Smt. Sanyogita Shetye
through her P/A.
Shri Kashinath Shetye,
R/o Bambino Building,
Alto Fondvem, Raibandar,
Tiswadi – Goa

... Complainant

V/s

The Public Information Officer,
Executive Engineer,
W. Div.VIII, P.W.D.,
Fatorda, Margao-Goa

... Opponent

Power of Attorney of Complainant present.

Opponent absent.

Adv. K.L. Bhagat for opponent present.

ORDER
(20/04/2012)

1. The Complainant, Smt. Sanyogita Shetye through her Power of Attorney, Shri Kashinath Shetye has filed the present complaint praying that the information as requested by the complainant be furnished to him correctly free of cost as per Sec.7(6) and as per circular and the annexure I to V; that the penalty be imposed on the P.I.O. as per law for denying the information to the complainant; that compensation be granted as for the detriment faced by the complainant for not getting the information and also for harassment caused for making him run from pillar to post and that inspection of documents may be allowed as per rules.

2. The case of the complainant is fully set out in the complaint. In short it is the case of the complainant that, vide application dated 30/06/2009, sought certain information under Right to Information Act, 2005 ('R.T.I. Act for short) from the Public

Information Officer(P.I.O.)/opponent. That the opponent failed to furnish the required information as per the application of the Complainant and further no inspection of information was allowed. Being aggrieved by the non-action by the opponent of the R.T.I. Act., the complainant has filed the present complaint on various grounds as set out in the complaint.

3. The opponent resists the complaint and the reply of the opponent is on record. It is the case of the opponent that the complainant had asked for certain information. That Shri M. V. Gaonker, the then Executive Engineer, Work Div.VIII, Margao has very promptly responded to her application and invited, her to his office evidently to know what exactly she wanted from him as P.I.O. Work Div.VIII. That the Complainant has conveniently concealed this fact. That the then S.P.I.O. Shri M. V. Gaonkar has in no way denied to furnish the information to the Complainant. That the Complainant ignoring the said letter sent to her by Registered A/D instead of visiting his office straightway approached the First Appellate Authority of P.W.D. That the F.A.A. dismissed the application. That the complainant convincingly concealed this fact and approached this Commission with present complaint against the opponent instead of Second Appeal against the order of F.A.A. That the complaint is not maintainable. According to the opponent, complaint is liable to be dismissed.

4. Heard Shri K. Shetye, the complainant's P/A. and Adv. Shri K. L. Bhagat for opponent and perused the records of the case.

It is seen that the complainant through her P/A sought certain information in connection with the circular of Chief Secretary dated 9/6/2009. It appears that this letter was received on 9/7/2009. By letter dated 10/7/2009, the Executive Engineer Shri M. V. Gaonker requested the Complainant to meet him in his office. The letter was sent by Registered A/D and as seen from the records the same was received by the Complainant. It is seen that on 24/7/2009 the complainant filed an appeal before the First

Appellate Authority (F.A.A.). By order dated 30/09/2009, the F.A.A. observed as under :-

“After hearing the submissions of both the parties and taking into consideration the documents on record, the undersigned is of the opinion that the respondent/S.P.I.O., the Executive Engineer, Works Div.VIII, P.W.D., has not shown any malafide intention in hiding or refusing to furnish the documents to the appellant. Further it is also the submission of the respondent S.P.I.O. that the documents sought by the appellant do not exist with the respondent S.P.I.O. and as such he has been unable to furnish the certified copies of the said documents as sought by the appellant vide her application dated 30/6/2009.

The appeal is therefore dismissed.”

5. The complainant has, therefore, filed the present complaint instead of second appeal.

6. It is to be noted here the Complainant had sought inspection, however, by letter dated 10/7/2009 instead of going to the office to find out about information the complainant chose to file the First Appeal. Before the F.A.A. it was contended by opponent that information sought was not existing. Under R.T.I. the information which is held by Public Authority is to be furnished. There is no obligation to furnish the non existing information as it did not qualify to be an information ‘held’ by the Public Authority in terms of Sec.2(j) of the R.T.I. Act. In short the information which is not maintained or held by the Public Authority can not be disclosed.

In any case the opponent can furnish the information that is available with the Public Authority.

The Complainant also seeks inspection of all files etc. The Complainant was called by the opponent to their office but the

Complainant did not go. In any case inspection can be given. The opponent can fix a date for inspection and thereafter available information can be given.

7. Coming to the aspect of delay. It is seen that information was sought by application dated 30/6/2009. It appears from the endorsement on the application that the same was received on 9/7/2009 and letter dated 10/7/2009 was sent. In any case there is no delay as such. Coming to the aspect of information, if the same is available then the same can be furnished. Inspection also can be given. The question of penalty and compensation does not arise.

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

ORDER

The complaint is partly allowed. The opponent/P.I.O. is directed to furnish the available information as sought by the Complainant, vide her application dated 30/06/2009, within 30 days from the receipt of this order.

The opponent to give the inspection of documents/files to the Complainant on a mutually agreed date but within 10 days from the receipt of this order and thereafter on inspection the information, if available, be furnished as specified by him/her. The whole process to be completed within 30 days.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 20th day of April, 2012.

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