

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Complaint No. 202/SIC/2010

Mr. Rudresh S. Naik,
R/o. Radha Building,
2nd Floor, Near Market,
Panaji – Goa

...Complainant

V/s

Public Information Officer,
Hydrographic Surveyor,
Captain of Ports Department,
Panaji – Goa

... Opponent

Complainant absent.

Opponent in person.

Adv. Smt. N. Narvekar for the Opponent.

ORDER

(17.04.2012)

1. The Complainant, Shri Rudresh S. Naik, has filed the present Complaint praying that records and proceedings before the Opponent be called for; that Opponent be directed to furnish the information sought by the Complainant in accordance with his application dated 06.01.2010 and the said information be furnished free of charge; that disciplinary action be initiated for giving wrong, incomplete and misleading information and obstructing the access to the information sought by the Complainant and that penalty be imposed on the Opponent.

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

That the Complainant, vide his application dated 11.01.2010, 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 on 13.02.2010 the Complainant received a letter dated 10.02.2010. That the Opponent has purposely withheld his application and in order to comply with the RTI Act he has knowingly furnished, incorrect and incomplete information to the Complainant i.e. "Under Process" with reference to points No. 1 and 2 with the malafide intentions of denying the request of the Complainant which itself is a deemed refusal of the request of this Complainant so as to obstruct the access to it and destroy the same. That the

information/documents which he had sought in respect of subject matter are departmental documents which should be open to the public and as such the Opponent is bound to furnish the same to the Complainant but on the contrary the Opponent has failed to furnish the same with malafide intentions. That the Opponent being aggrieved by the inaction and failure of the P.I.O./Opponent to entertain the application and also for giving incorrect and incomplete information has filed the present 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 the Complainant had applied in writing as per Section 6(1) of the RTI Act, 2005 vide application dated 11.01.2010 to provide the information. That in terms of sub-Section (4) of Section 5 of the RTI Act the Opponent/P.I.O. was of the opinion that it was necessary to seek assistance of the other officer and, therefore the Opponent vide office note dated 15.01.2010 called for requisite information. That point-wise information was furnished on 10.02.2010 to the Complainant. It is the case of the Opponent that full and complete information as sought by the Complainant could not be provided by the P.I.O./Opponent to the Applicant since no decision had been arrived at and the competent authority had intimated to the P.I.O./Opponent that matter is under process in respect of both the items covered by the request contained in the application dated 11.02.2010. That the Complainant has not exercised his right of First Appeal as provided under Section 19(i) of the RTI Act. According to the Opponent, the Complaint is not maintainable and liable to be dismissed.

4. Rejoinder to the reply of the Opponent is filed by the Complainant and the same is on record. In para 6 of the rejoinder the Complainant states that the complaint is filed under Section 18(1) (e) of the RTI Act.

5. It is seen from record that initially Shri Rupesh Porob, representative of the complainant appeared. However, from 15.02.2011 neither the Complainant nor his representative appeared. On 18.03.2011 notice was issued to the Complainant to remain present but the Complainant did not care to remain present. In any case I am proceeding on the basis of record.

6. Heard Adv. Smt. N. Narvekar for the Opponent. According to her available information was furnished. She next submitted that information furnished is true and correct.

7. I have carefully gone through the records of the case and also considered the arguments advanced by the Advocate for the Opponent.

It is seen that the Complainant, vide his application dated 11.01.2010 sought the information, with reference to his application dated 01.07.2009 for construction of slipway at Vagurbem Ponda, as under:-

“(1) Copy of all the official notings on the abovementioned file including all notes, reports, site visit reports.

(2) Also kindly provide as on date status of the file”.

By reply dated 10.02.2010 the Opponent/P.I.O replied as under:-

“With reference to the above, the information as desired by you are furnished herewith as under:-

1. Under Process.
2. Under Process.”

Being not satisfied the Complainant has filed the present Complaint.

8. It is the case of the Complainant in the Complaint as well as in rejoinder that information furnished is incorrect and incomplete. In the rejoinder at para 6 the Complainant states that the Complaint is filed under Section 18(1)(e) of the RTI Act.

It is seen that P.I.O. under Section 5(4) obtained information from dealing hands. I have perused the said letter dated 15.01.2010 which is on record. I have also perused the reply dated 10.02.2010. As per the same the reply is ‘under process’. It is to be noted here that the information as sought with reference to application dated 01.07.2009 for construction of slipway and information as furnished as ‘under process’.

The Complainant has not shown how this information is incorrect and incomplete. The P.I.O. is supposed to furnish the information as available on records.

There is nothing on record to show that the same is incorrect or incomplete. According to Opponent the same was under process.

In fact the same appears to be grievance of the Complainant. RTI is not a grievance redressal forum.

9. Now it is to be seen whether there is any delay in furnishing the information.

It is seen that the application is dated 11.01.2010. It appears that the same was received on 12.01.2010 as per the endorsement. The reply is dated 10.02.2010. According to the endorsement on the reply the same was received on 13.02.2010. In any case the same is in time. Therefore, there is no delay as such.

10. Regarding maintainability of Complaint. Normally the information seeker cannot directly prefer Complaint or Second Appeal unless he approaches First Appellate Authority. In other words one cannot skip Section 19 and approach the Commission under Section 18. However since the Complainant states in rejoinder that the same is under Section 18(1)(e) the Complaint is maintainable.

11. Since information is furnished no intervention of this Commission is required. The Complainant also failed to show how it is incorrect, incomplete, etc. and hence there is no need to hold inquiry. Hence, I pass the following Order:-

ORDER

No intervention of this Commission is required as information is furnished. The Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 17th day of April, 2012.

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

