

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 02/SIC/2012

Mr. Claude Alvares,
G-8, St. Britto's Apartments,
Feira Alta,
Mapusa – Goa Complainant.

V/s.

Public Information Officer,
Department of Science, Technology & Environment,
Opp. Saligao Seminary,
P.O. Saligao,
Bardez – Goa & 7 Others. Opponent.

Complainant in person.

Opponent in person.

ORDER
(18.06.2012)

1. The Complainant, Shri Claude Alvares, has filed the present Complaint praying that the inquiry be initiated; that it be held that transfer under Section 6(3) of R.T.I. Act within the same Public Authority is ultra vires of the said section; that the Opponent/s be directed to furnish the said information free of charge in terms of Section 7(6) of the RTI Act and that maximum penalty be imposed on the Opponent/s under Section 20(1) of the RTI Act.

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

That the Complainant, vide an application dated 12.09.2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer ('P.I.O.)/Opponent No. 1. That the Opponent No. 1 transferred the said application under Section 6(3) of the R.T.I. Act to Opponent No. 2 and 3 vide letter dated 23.09.2011 on the ground that the information sought is dealt by the office of Opponent No. 2 and 3 and further advising them to furnish the required information to the Complainant directly. That the Opponent No. 2 once again transferred the said application under Section 6(3) of the RTI Act to Opponent No. 4 vide letter dated 29.09.2011 on the ground that the matter pertains to the

jurisdiction of Opponent No. 4 advising him to furnish the information sought directly to the Complainant. That the Opponent No. 2 also sought assistance under Section 5(4) of the RTI Act from Opponent No. 5 in providing the information. That the Opponent No. 2, 4 and 5 are P.I.Os of the same Public Authority i.e. Forest Department. That the Complainant received a letter from Opponent No. 4 dated 12.10.2011 refusing information sought on the ground that it was not possible to furnish the said information as the survey numbers of the land in question is not known and that they are also not mentioned in the application. That the Complainant, thereafter, managed to locate the survey numbers of the said land and intimated the same to the said Opponent by his letter dated 01.12.2011 further requesting the Opponent to furnish the desired information. That Opponent has also not received any communication from Opponents Nos. 2 or 5 either furnishing the information or refusing the same. That the Opponent no. 3 further transferred the Application to Opponent No. 6 under Section 6(3) of the R.T.I. Act by letter dated 03.10.2011 advising him to provide the information directly to the Complainant. That the Opponent No. 6 by his letter dated 10.10.2011 further transferred the same under Section 6(3) of the RTI Act to Opponent No. 7 and 8 who in fact are within the same Public Authority i.e. Town and Country Planning Department advising them to furnish the information to the Complainant directly. He also transferred the said application to Opponent No. 2. Opponent No. 7 refused to provide information informing Opponent No. 3 vide letter dated 19.10.2011 that entire matter pertains to Opponent No. 2 and that since the matter is already transferred to Opponent No. 3 by Opponent No. 1, Opponent No. 3 should provide information to the Complainant. That the Opponent No. 8 by his letter dated 19.10.2011 rejected the request for information under Section 7(1) and Section 8 of the RTI Act on the ground that information can be furnished only after making application in the format provided under Government Order No. 16-11-90-RD dated 07.03.2007 duly published in Official Gazette. That Opponent No. 2 has not provided any information so far. That the Opponent No. 6 by his letter dated 21.10.2011 informed that information sought is not available in material form in the records of his office and the application was transferred to Opponent No. 7, 8 and 2 by his letter dated 10.10.2011. Since information was not furnished and being

aggrieved the Complainant has preferred the present Complaint on various grounds as set out in the Complaint.

3. The replies of Opponent No. 1, 3, 4, 6, 7 and 8 are on record. Their case is fully set out in their reply. I need not reproduce the same herein.

4. Heard the Complainant and the Opponents. During the course of his arguments the Complainant submitted that information has been furnished.

5. I have carefully gone through the records of the case. It is seen that by application dated 12.09.2012 the Complainant sought certain information from P.I.O., Department of Science, Technology and Environment, Saligao Plateau, Saligao, Bardez-Goa i.e. Opponent No. 1. By letter dated 23.09.2011, the P.I.O./Opponent No. 1 transferred the said application to the P.I.O., Forest Department/Opponent No. 2 and P.I.O. Department of Settlement and Land Records/Opponent No. 3 under Section 6(3) of the RTI Act. The said request was transferred again to Opponent no. 3, 4, 5, 6, 7 and 8. I need not refer to this aspect in detail as Complainant states that full information is furnished and that he has no grievance on that count.

6. During the course of hearing Complainant submitted about transfer under Section 6(3).

I do agree with the Complainant that the transfer is in violation of proviso to Section 6(3). Normally such a transfer should be within 5 days.

It is to be noted here that sub-Section (1) of Section 6 expressly requires that a person who desires to obtain information under the Act shall make a request alongwith the prescribed fee to a P.I.O. of the concerned Public Authority specifying the particulars of the information. Sub-section (3) carves out an exception to the requirements of sub-Section (1). As per the same when the Public Authority to whom application for information has been made, finds that information demanded is not with it but is held by some other authority, it is duty bound to transfer the application for information to the concerned authority under intimation to the applicant/information seeker. In my view sub-Section (3) of Section 6 cannot be read in isolation, sub-Section (1) being main section. Intention of the Legislature appears to be good considering that RTI Act is people

friendly Act. The pure objection behind enacting this provision is perhaps to lessen the travails of an information seeker, lest he is lost in the labyrinth of procedural technicalities.

Under Section 5(1) and (2) of the RTI Act, a public authority could designate as many as C.P.I.Os and A.C.P.I.Os. The object of designation of many P.I.Os and A.P.I.Os is only with the view that the citizens have a proximity of approach. Once an applicant/information seeker asks for information to a P.I.O. of a public authority, irrespective of where and with whom the information is available within the same public authority, it is the duty of that P.I.O. to furnish the information sought for in relation to that public authority, if necessary, by obtaining the same from the concerned P.I.O. with whom the information sought may be available. As per this there is no scope to either to ask an applicant to approach another P.I.O. or send the request for information to another P.I.O. within the same Public Authority. Section 6(3) comes into play only where the information sought is held by another Public Authority. Transfer of application within the same authority Section 6(3) cannot apply.

In any case this is purely academic now.

7. According to the Complainant information is furnished and he has no grievance of any sort. Hence, I pass the following Order:-

ORDER

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

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 18th day of June 2012.

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

