

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 72/SIC/2012

Dr. (Ms.) Kalpana V. Kamat,
Bhute Bhat,
Mestawada,
Vasco-Goa Complainant
V/s.

Public Information Officer,
Office of Director,
Directorate of Education,
Porvorim – Goa ... Opponent

Complainant in person.

Shri D. Chaudiker, representative of the Opponent.

ORDER
(28.06.2012)

1. The Complainant, Dr. (Ms.) Kalpana V. Kamat, has filed the present Complaint praying that inspection of information/documents, files be allowed; information be furnished correctly and fully as requested by the Complainant and that the same be furnished free of cost and that penalty be imposed on the Public Information Officer in terms of Section 20 of RTI Act.

2. The gist of the present Complaint is as under:-

That the Complainant, vide application dated 09.03.2012, 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 no reply was received within the statutory period of one month. Being aggrieved the Complainant has filed the present Complaint on the grounds as set out in the Complaint.

3. In pursuance of the notice issued Shri D. Chaudiker, representative of the Opponent remained present. He did not file any reply as such, however, he advanced arguments.

4. Shri Chaudiker submitted that Complaint is not maintainable as First Appeal has not been preferred. I heard the Complainant also on this point.

5. I have carefully gone through the records of the case. It is seen that the Complainant vide application dated 09.03.2012 sought certain information. It appears from the record that no reply is furnished. Since reply is not furnished the present Complaint is filed.

6. During the course of hearing Complainant agrees that Appeal ought to have been filed. I have perused some of the rulings on the point. They are as under:-

(i) In Writ Petition No. 132 of 2011 with Writ Petition No. 307 of 2011, Reserve Bank of India V/s. Rui Ferreira & Others, the Hon'ble High Court of Judicature at Bombay Goa Bench also held that it is not the intention of Parliament to permit parties who seek information to bypass the appeals provided by the Act. It was also observed that it was not permissible for the State Information Commission to entertain the complaint made by Respondent No. 1 under Section 18 of the Act.

(ii) In Chief Information Commissioner & Another v/s. State of Manipur & Anr. (Civil Appeal No. 10787-10788 of 2011 dated 12.12.2011) the Hon'ble Supreme Court has observed that the remedy for such a person who has been refused the information is provided under Section 19 of the Act. It was observed as under:-

“Therefore, the procedure contemplated under Section 18 and Section 19 of the said Act is substantially different. The nature of the power under Section 18 is supervisory in character whereas the procedure under Section 19 is an appellate procedure and a person who is aggrieved by refusal in receiving the information which he has sought for can only seek redress in the manner provided in the statute, namely, by following the procedure under Section 19. This Court is, therefore, of the opinion that Section 7 read with Section 19 provides a complete statutory mechanism to a person who is aggrieved by refusal to receive information. Such person has to get the information by following the aforesaid statutory provisions. The contention of the

appellant that information can be accessed through Section 18 is contrary to the express provision of Section 19 of the Act.....”.

In any case in view of the above, the remedy lies of First Appeal.

In view of all the above, I am of the opinion that the Complainant should file the Appeal before the F.A.A. i.e. Director of Education, Education Department, Porvorim-Goa and the F.A.A. to dispose the same in accordance with law. The Appellant to file the appeal within ten days from the date of receipt of this Order. Since Complaint is filed in time the question of delay should be considered favourably. In case the Complainant is aggrieved by the Order of the F.A.A. she can certainly prefer Second Appeal/Complaint. Hence, I pass the following Order:-

ORDER

The Complainant is directed to file the Appeal before the First Appellate Authority i.e. Director of Education, Education Department, Porvorim-Goa within ten (10) days from the receipt of this Order.

The First Appellate Authority to hear the same after giving opportunity to the parties and dispose the same strictly in accordance with law. The Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 28th day of June, 2012.

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

