

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 63/SCIC/2011

Mr. Eurico Mascarenhas,
Alto de Porvorim,
Brdez – Goa – 403 521

.... Complainant

V/s.

Public Information Officer,
Administrator of Comunidade
North Zone,
Mapusa – Goa

.... Opponent

Complainant in person.

Opponent alongwith Adv. K. H. Bhosale.

ORDER
(28.06.2012)

1. The Complainant, Shri Eurico Mascarenhas, has filed the present Complaint praying that the Commission be pleased to initiate the necessary inquiry under the provisions of Section 18(2) of the R.T.I. Act, 2005 to ascertain the conduct and malafide of the Opponent in willfully denying as also deliberately violating the Order of the First Appellate authority dated 31.12.2010 passed in R.T.I./AC-II/49/10/APL by not providing the information sought by the Complainant vide his application dated 17.09.2010; that the Commission be pleased to direct the Opponent to furnish requisite information sought by the Complainant vide his application dated 17.09.2010 and as directed by the First Appellate Authority vide its Order dated 31.12.2010 at the earliest and that appropriate penalty under Section 20 of the R.T.I. Act be imposed on the errant P.I.O.

2. The facts of the case are set out fully in the Complaint which are as under:-

That the Complainant, vide application dated 17.09.2010, 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 as per the provisions stipulated under Section 7 of the R.T.I. Act, 2005, the information has not been given after a period of 30 days as a result of which

the Complainant was forced to file Appeal under Section 19 of the R.T.I. Act before the Appellate Authority, i.e. Addl. Collector North Goa at Panaji. That the Appellate Authority, vide Order dated 31.12.2010 was pleased to allow the said appeal and directed the Opponent to furnish the requested information free of cost within 15 days of the receipt of the said Order. That till today the Opponent has failed to furnish the information sought for by the Complainant vide application dated 17.09.2010 and as directed by First Appellate Authority vide its Order dated 31.12.2010. That the Opponent has willfully and deliberately violated the Order of the F.A.A. Being aggrieved the Appellant has filed the present Complaint.

3. In pursuance of the notice issued the Opponent/P.I.O did not appear nor filed any reply. However, Adv. Shri K. H. Bhosale appeared on behalf of the Opponent and advanced submissions.

4. Heard both sides and perused the records.

It is seen that the Complainant has filed an application dated 17.09.2010 seeking the information as under:-

“1. Kindly request you to furnish me the details of the Administrator of Comunidades North Zone Mapusa vide his approval given in Entry No. 4226 dated 23.09.96 on the Serula Comunidade letter No. 324 dated 23.09.96.

2. The method by which Acconist (Shareholder) get dividend and what was the collection money of the agricultural produce for the last 3 years, to be distributed among the accoes as per the Code of Comunidade.

3. In which month of the year the jonos is distributed.”

It appears that no reply was furnished as can be seen from the records. Since information was not furnished the Complainant preferred an appeal before the First Appellate Authority. The F.A.A. passed the order on 31.12.2010. It is pertinent to note the relevant observation:-

“6. From the pleadings and submissions of the parties it is evident that the information which the Appellant had sought at item No. a in his application dated 27.09.2010 refers to the very office of the Respondent No. 1 and pertains to the matter wherein the Respondent

himself has given the approval as alleged by the Appellant and the respondent has not denied the same. As regards the other information at item No. b which refers to the method by which the shareholder get dividend, and what was the collection of money of the agricultural produce for the last three years to be distributed among the accores; and (c) the month of the year the jonos is distributed, the information in these regards is presumed to be available with the office of the respondent, but assuming that the same is not in his office, then it was the duty of the respondent to furnish the same to the Appellant within the statutory period of 30 days by obtaining the same from the Comunidade of Serula and not to merely forward the appellant's request to the clerk of the Comunidade of Serula seeking his assistance.

7.
.....

8. In view of the above observations the respondent is hereby directed to furnish to the appellant, free of cost, the information sought by the appellant vide his application dated 17.09.2010 within 15 days from the receipt of this Order and report compliance.”

It is the case of the Complainant that no information is furnished so far.

It is to be noted here that the order of F.A.A. stands. The same is not challenged. The Opponent will have to comply with the same.

5. It was next contended about delay. It is to be seen whether there is any delay in supplying the information. According to the Complainant no information was furnished. Even after the Order of the F.A.A. no information was furnished. In any case to my mind the Public Information Officer/Opponent should be given an opportunity to explain about the same in the factual matrix of this case.

6. In view of all the above, the Opponent will have to comply with the Order of the F.A.A. The P.I.O./Opponent should be heard on the aspect of delay. Hence, I pass the following Order:-

ORDER

The Complaint is allowed. The Opponent is hereby directed to furnish the information to the Complainant as sought by him vide Order dated 17.09.2010 and/or comply with the order dated 31.12.2010 passed by the First Appellate Authority, within 30 days from the receipt of this Order.

Issue notice under Section 20(1) of the Right to Information Act, 2005 to the Public Information Officer/Opponent to show cause as to why penal action should not be taken against him for causing delay in furnishing the information. The explanation, if any, should reach the Commission on or before 13.08.2012. The Public Information Officer/Opponent shall appear for hearing.

Further inquiry posted on 13.08.2012 at 10:30a.m..

Complaint is accordingly disposed off.

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

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

