

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.190/SCIC/2010

Shri Kashinath Shetye,
R/o Bambino Building,
Alto Fondvem, Raibandar,
Tiswadi – Goa

... Complainant

V/s

The Public Information Officer,
Chief Officer,
Quepem Municipal Council
Quepem-Goa

... Opponent

Complainant in person.

Adv. Shri G.K. Hegde Dessai for Opponent present.

ORDER
(17/07/2012)

1. The Complainant, 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); 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 be allowed as per rules.

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

That the complainant had filed an application dated 10/02/2010 under Right to Information Act, 2005 ('R.T.I.' Act for short) thereby requesting the Public Information Officer ('P.I.O.') to issue information specified therein. That the P.I.O./Opponent failed to furnish the required information as per the application of the complainant and further no inspection of information was allowed and payment in challan. The complainant, considering the said non-action on behalf of opponent No.1 and being aggrieved has filed the present complaint on various grounds as set out in the complaint.

3. The opponent resists the complaint and the reply is on record. It is the case of the opponent that he received from P.I.O. Directorate of Municipal Council a copy of complaint of the present Complainant seeking some information of mobile towers installation and its relevant documents. That after verifying the contents of the complaint it was noticed that there was some vagueness in the contents of the complaint which could not be replied immediately. In the circumstances the complainant was requested to remain present before the opponent only to get clarifications in respect of the information sought by the complainant so also inspecting the files available with opponent. That the contents of the letter dated 10/2/2010 are self explanatory about the vagueness which could not have been replied without clarifications on the part of the complainant. That the opponent at no point either refused any information nor denied any inspection to the complainant. That the letter informing complainant to clarify the vagueness from the contents of letter which could have been done only in presence of the complainant by inspecting the files. It was not clear in complaint which four buildings. The opponent denied the grounds set out in the complaint. In short information was never denied. According to the opponent the complaint deserves to be dismissed.

4. Heard the arguments of the Complainant and the learned Adv. G. K. Hegde Dessai for the opponent/P.I.O.

During the course of his arguments the advocate for the opponent submitted that application was received from Director of Municipal Administration on 15/2/2010. He referred to letters. According to him information is furnished as available and that there is no delay nor malafide intention.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not?

It is seen that Shri Kashinath Shetye along with four others filed a complaint and information under R.T.I. dated 10/2/2010. Strangely the same was addressed to P.I.O. Directorate of Municipal Administration, Panjim with a request to transfer application to P.I.O. Chief Officer,

Quepem Municipal Council, Quepem. Of course under Sec.6 application is to be made to the concerned P.I.O. Again this a complaint by a group of persons and also an application for information. By letter dated 23-2-2010/2-3-2010 the P.I.O. requested the complainant to remain present on any working day to know the exact details of information required by him. Being aggrieved by this letter the complainant filed the complaint on 5/3/2010 as per complaint. In fact letter dated 2-3-2010 is not order as contended by the complainant. However, the complainant did not attend the office of opponent though inspection was sought.

It is seen that by letter dated 27/7/2010 the information is furnished.

6. Coming to the prayers in the complaint. Information is already furnished. Regarding penalty. Of course there is delay however, I do not wish to go to the fact that whether same is on account of P.I.O. or complainant's refusal to attend.

This is because the complaint without approaching the First Appellate Authority is held to be not maintainable. In one case where penalty was levied in a complaint the Hon'ble High Court set it aside holding that since complaint is not maintainable the penalty also is not maintainable being an illegal order (Reserve Bank of India V/s Shri Rui Ferreira & others (Writ Pet. No.1320 + 2011 with Writ Pet No.307 of 2011 dated 28/7/2011). In view of this it is not possible to go for penalty proceeding.

Regarding inspection. Records do not show that inspection was given. In any case, P.I.O./opponent can give inspection to the complainant on a mutually agreed date but preferably within 15 days from the date of receipt of this order.

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

ORDER

Complaint is partly allowed. No intervention of this Commission is required as information is furnished.

The opponent/P.I.O. to give the inspection of records to the complainant on a mutually agreed date but within 15 days from the date of receipt of this order.

The Complaint is accordingly disposed off.

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

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