

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.87/SIC/2012

Smt. Joan Monteiro,
H. No.34-C, Porba Vaddo,
Calangute, Bardez - Goa

... Complainant

V/s.

1. The First Appellate Authority,
Shri S.S. Naik,
Block Development Officer,
Mapusa, Bardez-Goa
2. The Public Information Officer,
Shri Subodh V. Prabhu,
V. P. Secretary,
Village Panchayat Calangute,
Bardez - Goa

... Opponents

Complainant present
Opponent No.1 and 2 absent.

ORDER
(19/07/2012)

1. The Complainant, Smt. Joan Monteiro, has filed the present complaint praying that the P.I.O. be directed to furnish the requested information; that the P.I.O. be directed to compensate the complainant for undue tension and anxiety and other financial loss and delays caused due to denial and refusal of information by the Public Information Officer; that penalty be imposed on the P.I.O. U/s.20(1) of the R.T.I. Act; and that disciplinary action under service rules be recommended against the P.I.O.

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

That the complainant vide application dated 2/1/2012 sought certain information under Right to Information Act, 2005('R.T.I.' Act for short) from the Public Information Officer(P.I.O.)/Opponent No.2. That on 3/1/2012 the complainant received a reply to her R.T.I. application from the P.I.O. stating that P.I.O. was "not clear on the type of information from point No.1 to point No.12 and requested her to approach village panchayat office for clarification. That on 3/1/2012 the clarification was given and P.I.O. replied that he was satisfied with the clarification and that he would furnish the information requested within the stipulated time. However nothing was heard from the P.I.O. Since no information was furnished the complainant filed appeal before First Appellate Authority(F.A.A.)/opponent No.1 That the opponent No.1/F.A.A. disposed off the appeal stating that clarification to be given to the P.I.O. and thereafter handover complete information to the complainant. That on 7/4/2012 complainant filed written clarification addressed to P.I.O. with copy to F.A.A./B.D.O. and the reply received from P.I.O. dated 13/4/2012 is malafide, misleading, false and unsatisfactory. That the P.I.O. is deliberately refusing to furnish information. Being aggrieved the complainant has filed the present complaint on the grounds as set out in the complaint.

3. The notice was issued to the opponent to remain present on 26/06/2012. However, opponent No.1 and 2 remained absent. Fresh notice was issued to the P.I.O. i.e. present P.I.O. to remain present on 19/7/2012. However he remained absent. Hence I am proceeding on the basis of records.

4. Heard the complainant and perused the records.

It is seen that by letter dated 2/1/2012, the complainant sought certain information. The information consisted of 12 points/items i.e. Sr. No.1 to Sr. No.12. By reply dated 3/1/2012, the P.I.O. Village Panchayat Calangute, Shri Subodh V. Prabhu informed the complainant that after perusing said application, it is not clear the type of information, the complainant wanted. He

further requested the complainant to approach his office to give more clarification on the information so as to facilitate him to give clear information. It appears that the same was not given and hence on 6/2/2012, the complainant preferred the appeal before First Appellate Authority. By order dated 28/3/2012, the F.A.A. observed as under :

“It is submitted by respondent that he has not received proper clarification on the application. Therefore I hereby order that the appellant to give clarification in writing and once clarification is received the respondent shall handover complete information within 7 days from the date of clarification received from the appellant.”

5. It appears that pursuant to the order of First Appellate Authority the complainant furnished the clarification. It is seen that by letter dated 13/4/2012 the P.I.O. informed the complainant that after perusing the clarification submitted by her with inward No.107 with regard to survey No.364/7 at Porbavaddo – Calangute it is found that the Complainant has not given the name of person to whom the license is issued nor the license reference Number is given, as their panchayat does not keep the record as per survey number and hence the information sought by complainant at point No.2 cannot be given in absence of proper clarification. However inspection was offered.

6. It is to be noted here that in the scheme of R.T.I. the P.I.O. plays a pivotal role. He is a designated person or representative of Department or organization and is responsible to ensure compliances with the R.T.I. Act and facilitate the information seeker in obtaining the information. Even under sub-section 3 of Sec.5 every P.I.O. has a duty to deal with applications received from persons seeking information and is also under obligation to render reasonable assistance to the information seeker in making the desired information available in prescribed period. In short a combined reading of Sec.5 of the R.T.I. Act will indicate that every

P.I.O. should extend all reasonable assistance in making the information available rather than putting hurdles or finding faults.

By letter dated 3/1/2012 the P.I.O. called the appellant to give more clarification. Again by letter dated 13/4/2012 still finds fault. This appears to be rather surprising. As a result of this there is delay in furnishing the information. Till to-day information is not furnished.

7. I have perused the application seeking information. The First Appellate Authority ordered the appellant to give clarification in writing and once clarification is received the respondent shall hand over the complete information within 7 days from the date of clarification received from the appellant. This order has not been challenged and therefore stands. The clarification was given. P.I.O. wanted still further clarification. In any case P.I.O. will have to comply with this order.

In case the P.I.O. wants clarification he should seek from the complainant and then furnish the information.

8. Regarding the aspect of delay. The application is dated 2/1/2012 however no information is furnished according to the complainant. In any case, to my mind, the P.I.O. should be given an opportunity to explain about the delay in the factual backdrop of this case.

9. In view of all the above, I pass the following order :-

ORDER

The complaint is allowed. The opponent No.2/P.I.O. is directed to furnish the information sought by the complainant vide application dated 2/1/2012 and/or to comply the order dated 28/3/2012 of the First Appellate Authority within 20 days from the receipt of this order.

In case the opponent No.2/P.I.O. wants any clarification he should get the same fully from the complainant within 5 days from the receipt of this order and thereafter furnish the information. The whole process to be completed within 20 days.

Issue notice Under Sec.20(1) of the R.T.I. Act, 2005 to the P.I.O./opponent No.2 to show cause 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 **21/8/2012** The opponent No.2/P.I.O. shall appear for hearing.

Further inquiry posted on **21/8/2012 at 10.30 a.m.**

The complaint is accordingly disposed off.

Pronounced in the Commission on this 19th day of July, 2012.

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