

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No.182/SIC/2011

Shri Subhash B. S. Jetha
R/o.D-5. Junta House,
Mapusa, Bardez - Goa

... Complainant

V/s.

The Public Information Officer,
Administrator of Comunidade,
North Zone,
Mapusa-Goa

... Opponent

Complainant present
Opponent absent.
Adv. Shri K.H.Bhosale for opponent

ORDER
(28/06/2012)

1. The Complainant, Shri Subhash B. S. Jetha has filed the present complaint praying that the opponent be directed to furnish the information sought by the complainant vide his application dated 22/6/2011 forth with to meet ends of justice; that maximum penalty be imposed and that disciplinary action be initiated against the opponent.

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

That first appeal dated 30/8/2011 was filed before the Additional Collector of Panaji to seek information/certified copies of documents/Action Taken Report etc. That the F.A.A. issued notice and that the respondent filed replies. By order dated 3/10/2011, the F.A.A. directed the respondent No.1 to furnish the information

as sought vide application dated 22/06/2011. That consequent upon order of the First Appellate Authority, the appellant approached respondent on several occasions but of no use. That the respondent is determined to deny the information contrary to the provisions of law. It is the case of the complainant that respondent consistently failed to furnish the information. Being aggrieved the complainant preferred the present complaint.

3. The written submission of the opponent is on record. It is the case of the opponent that application was received from the complainant. However opponent denies that information supplied is false, incomplete and misleading under the provisions of R.T.I. Act. That since the information called by the complainant being not available in the office of the P.I.O. and the same relates to the information of the Comunidade of Verla, the said letter was forwarded to its Registrar/Attorney. That the information received from the Comunidade of Verla as it is forwarded to the complainant along with letter dated 21/7/2011. The opponent denies that opponent has intentionally denied the information. It is the case of opponent that the complainant failed to appreciate the efforts taken by the opponent/P.I.O. in seeking the said information in good faith to provide the same to the complainant and hence not liable for any penalty U/s.20. That the opponent is not having the said information and as such cannot provide the same. With regards to the prayers, taking into consideration non availability of the information which is not available with the P.I.O., the complaint is liable to be dismissed. The penalty clause is not applicable since efforts been made to provide the information. According to the opponent appeal is liable to be dismissed.

4. Heard the parties and perused the records. It is seen that by application dated 22/6/2011 the complainant sought certain information consisting of 3 points/items at Sr. No.3, 4 and 5. By reply dated 28/6/2011 Shri Anand S. Naik the acting Secretary of Administration & A.P.I.O., wrote to the Registrar/Attorney, Comunidade of Verla, Verla, Bardez, Goa and sought assistance

under sec.5(4) of the R.T.I. Act as the relevant information of the said application is in his possession. The copy of the said letter was sent to the complainant and the complainant was informed that the information sought by him was not available in their office and the same was supplied as soon as it is received from the concerned Comunidade. By letter dated 15/7/2011 the said acting Secretary/A.P.I.O. directed the Registrar/Attorney to expedite the matter. Copy of the letter was sent to the complainant. By letter dated 21/7/2011 the Administrator of Comunidade/P.I.O. furnished the information.

Being not satisfied the complainant preferred an appeal before the First Appellate Authority. It is pertinent to note that complainant admits of having received the information. However, it was the contention of the complainant that information furnished is false, incomplete and misleading. By order dated 3/10/2011 the First Appellate Authority ordered as under :-

“ Therefore, the respondent No.1 is hereby directed to furnish to the appellant true and factual information with reference to his application dated 22/6/2011 within fifteen days positively, free of cost from the receipt of this Order.”

According to the complainant this order is not complied with.

5. It is to be noted here that the information as held by Public Authority is to be furnished. There is no obligation on the part of P.I.O. to furnish non-existent information. The Right to Information Act can be invoked only for access to permissible information

6. It is seen that the First appeal was filed as information that was furnished was false, incomplete and misleading. The F.A.A. without any inquiry directed the opponent to furnish the true and factual information. This order is not challenged and therefore the

same stands. According to the Complainant this information is not furnished.

7. It is contended by the complainant that there is delay. It is to be seen whether there is delay. The application is dated 22/06/2011. The reply is furnished on 21/7/2011. There is no delay as such in respect of this aspect. According to the complainant there is delay in complying with the order of First Appellate Authority. However to my mind the P.I.O. and the Registrar/Attorney Comunidade of Verla, Verla, Bardez-Goa should be given an opportunity to explain about the same in the factual matrix of this case.

8. In view of the above, I am of the opinion that the opponent will have to comply the order of First Appellate Authority. The opponent as well as Registrar/Attorney of Comunidade of Verla are to be heard on the aspect of delay. Hence I pass the following order :-

ORDER

The complaint is allowed. The opponent is directed to comply the order of First Appellate Authority dated 3/10/2011, that is to say, to furnish to the appellant the true and factual information with reference to his application dated 22/6/2011 within 15 days from the receipt of this order.

Issue notice Under Sec.20(1) of the R.T.I. Act, 2005 to the opponent and Registrar/Attorney of Comunidade of Verla, Verla, Bardez-Goa 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 **13/8/2012** The opponent/P.I.O. and the Registrar/Attorney Comunidade of Verla shall appear for hearing.

Further inquiry posted on **13/8/2012 at 10.30 a.m.**

A copy of this order be sent to the Registrar/Attorney
Comunidade of Verla, Verla, Bardez, Goa.

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