

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No. 71/SCIC/2012  
in Complaint 21/SCIC/2011**

Mrs. Joan Mascarenhas E D'Souza,  
R/o.H. No.314/4. Tropa Vaddo,  
Sodiem, Siolim - Goa ... Complainant

V/s.

1) The Public Information Officer/Headmaster,  
Sacred Heart Primary School,  
Anjuna, Bardez-Goa ... Opponent

Complainant present  
Opponent present.  
Adv. Smt. H. Naik for opponent present.

**ORDER**  
(06/06/2012)

1. The Complainant, Smt. Joan Mascarenhas E D'Souza has filed the present complaint praying that an appropriate action be taken on the present complaint and the order be passed accordingly.

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

That the complaint No.21/SCIC/2011 was heard on 12/10/2011 by this Commission. That on 12/10/2011 the respondent No.1/P.I.O. made statement outside the Office of the Hon'ble State Information Commission which are defamatory of the Complainant character and was made in the hearing of the other person present outside the office of State Information

Commissioner and has been heard by person known personally to the complainant. That the respondent slandered the complainant by the term painted which is an age old slander for a women of low moral character. That the opponent No.1 is maliciously exhibiting personal ill-will and anger towards the appellant arising out of intimate personal friendship shared between opponent No.1 and the teacher Dorothy Fernandes and her family. That the Do.P.T has issued a circular No.4/9/2008-IR dated 24/6/2008 instructing Public Authorities, C.P.I.O.'s and other to show courteous behaviour towards RTI applicants and that this was from the feedback from the Chief Information Commissioner. The Opponent NO.1/P.I.O. is exceeding/crossing its limit and behaving in an unbecoming manner and in defiance of the said circular which is not at all expected from the P.I.O.who is holding such a high and respectable and noble post in the government and who is well educated in phrases and synonyms of Slander and malice. Being aggrieved the complainant has filed the present complaint.

3. The opponent resists the complaint and the reply of the opponent No.1/P.I.O. is on record. It is the case of opponent No.1 that he has vehemently denied that on 12/10/2011 the then P.I.O./Mrs Irene Cardozo made statement outside the office of Hon'ble State Commission which are defamatory of the complainant's character. The opponent No.1 also denies about the opponent slandered the term painted etc. The opponent No.1 denies the contents of para 2, 3 and 4 specifically. It is the case of opponent No.1 that letter No. Complaint No.21/SCIC/2011/1571 dated 21/11/2011 was neither issued in the office of the opponent No.1 nor to the opponent at any point of time and therefore question of remaining absent from 15/12/2011 and 24/1/2012 does not arise. That such complaint should not be entertained without any base and the same requires to be disposed. That the opponent No.1 always upheld her own personal honour and the honour of the post she has worked in. That the complainant is unnecessarily harassing opponent without any valid reasons. That

the opponent No.1 is now retired In short according to the opponent No.1 the complaint is liable to be dismissed.

4. Heard the arguments. The complainant argued in person and the Ld. Adv. Smt. H. Naik argued on behalf of opponent/P.I.O.

The complainant enumerated in detail the facts of the case and also about defamatory statements made. She also referred to the word “painted” and about “age old slander” etc. She next submitted that the statement was made in the presence of witness and the witness has heard the same. According to her the Commission should take cognizance of the same.

During the course of her arguments, Adv. Smt. Naik referred to the reply. According to her complaint is pertaining to personal things and that the same is not maintainable and this Commission cannot entertain the complaint. She next submitted that under R.T.I. Act such a complaint is not maintainable. She also referred to reply in detail. According to her, the incident as mentioned has occurred outside out of office of the Commission and therefore this Commission has no jurisdiction to entertain the same. In short according to the Advocate for the opponent the complaint is liable to be dismissed.

The complainant has also filed an affidavit of a witness Shri Jowett D’Souza which is on record. The affidavit states as to what transcribed outside office of the Commission.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The short point that falls for consideration is whether the Commission can grant such a relief.

It is to be noted at the outset that this Commission cannot be equated to a Court. The power of the Chief Information Commissioner and/or State Information Commissioner is the

creation of the statute and his power is restricted to the provisions of the Act. The power vested is to furnish the information or deny the same in view of Sec.8. In some cases, if information is not correctly supplied to order for correction of such information and supply the same. The power of adjudication of the rights of the parties are not vested in the Commission.

I have perused some of the rulings of the Central Information Commission on the point. In M.P. Sadashivam V/s. Central Vigilance Commission (Complaint No.CIC/W.B./C-2008/00213 decided on 27/07/2008) it was held that the Commission has no jurisdiction to compel the public authority to take any action much less take cognizance of a complaint.

In Surinder Puri V/s. Municipal Corporation of Delhi (Decision No.CIC/SG/C/2010/000163/72371 decided on 25/3/2010) it was held that the Commission as a statutory body does not have the powers to investigate allegations against offence under Indian Penal Code or take action under the Code of Criminal procedural.

6. By the present complaint the complainant wants this Commission to take appropriate action. It is to be noted here that R.T.I. Act is only to give information; however there is no provision in the Act to take action which is sought by the complainant. No doubt the complainant might be having a genuine grievance. She should approach appropriate forum.

7. It is to be noted here that this Commission has not passed any remark on the veracity or otherwise of the complaint as this Commission has no jurisdiction to entertain such a complaint. However if the complainant wants to persist with the matter the same should be taken in the appropriate forum.

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

**ORDER**

With the observation above, the complaint is disposed off.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 6<sup>th</sup> day of June,  
2012.

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