

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Complaint No.92/SCIC/2009**

Shri Mahesh Kamat,  
R/o.Shivnery Co-op. Housing Society,  
Comba, Margao -Goa ... Complainant

V/s.

The Chairman & Board of Directors,  
Kadamba Transport Corporation Ltd.,  
Paraiso de Goa Building,  
Alto Porvorim, Bardez, Goa ... Opponent

Complainant present.  
Opponent absent.  
Adv. P. Aggrawal for opponent present.

**ORDER**  
(20/07/2012)

1. The Complainant, Shri Mahesh Kamat, has filed the present complaint against the Chairman and Board of Directors Kadamba Transport Corporation Ltd. Porvorim, Goa, praying that necessary action be initiated against the respondents for adopting disciplinary action against the Complainant for seeking information under R.T.I. Act; that necessary action be initiated against the opponents for encroaching on the fundamental right of the Complainant by misconstruing the applications filed under the Act as misconduct and abuse of the R.T.I. Act; for compensation for financial loss and other reliefs as mentioned in the complaint.

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

That the Complainant is a citizen of India and entitled to seek information from any public authority under Right to Information Act, 2005 ('R.T.I.' Act). That the complainant is entitled to seek information from the opponents under the provisions of the act which the opponents cannot deny to the Member of Parliament and Legislative Assembly or when sought by the Parliament or State Legislative Assembly. That the Complainant while in the employment of the opponent Corporation was erroneously penalized for the misconducts of the other officers of the Corporation. That the Complainant sought information under the Act which was in the custody of the opponents to establish his non-involvement and the involvement of other officers of the opponent Corporation in the allegations framed against the complainant. That the opponents misconstrued the request for information as abuse of R.T.I. Act and compulsorily retired the Complainant from his employment. That an undated reply is filed by the P.I.O. of the opponent Corporation. Being aggrieved the complainant has filed the present complaint on the grounds as set out in the complaint.

3. The opponent has filed the reply which is on record. In short it is the case of the opponent that the complaint is misconceived and bad in law. That the same is gross abuse of the process of law. That the Complainant was given compulsory retirement vide order dated 20/6/2008. Against the said compulsory retirement, the Complainant filed Writ Petition before the Hon'ble High Court of Bombay, Goa Bench at Panaji bearing Writ Petition No.569/2008. That in reply to the said petition the Corporation filed affidavit in the Court defending the Compulsory Retirement of the Complainant. That the said Writ Petition is pending for final disposal. Based on the affidavit filed by the Corporation as above, the Complainant filed applications under R.T.I. Act seeking various information/documents. That whatever documents that were originated and available were provided to the Complainant. However, due to alleged non-furnishing of the detailed information the Complainant preferred second appeal before the Commission bearing No.292/SCIC/2008. That the P.I.O. filed written statement

in the said matter. That pending final disposal of the said appeal No.292/SCIC/2008 Complainant preferred present complaint without any cause of action as provided under Sec.18 of the R.T.I. Act. That the commission vide Judgement and Order dated 18/11/2009 allowed the appeal and directed the deemed P.I.O./Legal Assistant of the Corporation to give effect to the request made by the complainant. That accordingly, deemed P.I.O./Legal Assistant furnished/supplied the information as available with his section to the Complainant vide letter dated 15/12/2009. That the present complaint filed by the Complainant is premature and hence may be dismissed.

4. Heard the Complainant and the learned Adv. Shri P. Agrawal for the opponent.

The written arguments of the Complainant are also on record.

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.

At the outset I must say that right to know is a basic right of citizens in a free country. Long back Aristotle observed that people desire to know. Without adequate information a person cannot form an informed opinion. The Right to Information Act 2005 has been enacted to provide for a legal right to information for citizens to secure access to information under the control of Public Authorities, in order to promote transparency and accountability in the working of every public authority. The citizens and information seekers have, subject to few exemptions an over riding right to be given information on matters in possession of State and Public Agencies that are covered by the Act.

R.T.I. is a sun shine legislation and information seekers must take benefit of the same. None will be allowed under the law to put

an halt to this or put hurdles in the path of information seekers. In case any one does then it is against the spirit of the R.T.I. Act.

6. It is to be noted here that this Commission cannot be equated to a Court. The power of Chief Information Commissioner and/or State Information Commissioner is the creation of the statute and his 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. Power of adjudication of the right of parties are not vested in the Commission.

I need not quote but I have perused some of the rulings of Central Information Commission and also of the Hon'ble High Court of Gujrat. In view of all this, the relief sought by the Complainant cannot be granted. As far as R.T.I. is concerned the complainant/information seeker can only seek information as it exists in the organization. It is not a forum to settle the disputes as raised herein for which appropriate forum is to be approached.

It is also held that there are no provisions under R.T.I. Act for redressal of grievances relating to service matters.

7. It is not proper for this Commission to comment on the aspect of this present complaint as matter is pending before the Hon'ble High Court.

However in general, I feel that if any action is being taken only because R.T.I. applications are filed then it is unfortunate. Public Authorities should encourage R.T.I. as it concerns transparency, Accountability and openness.

Victimization for seeking information under R.T.I. is neither legally permissible nor justified. Besides it is socially abhorring. That the Commission in general would advise the authorities

concerned that no citizen of the Country should harbor any such apprehension.

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

**ORDER**

No intervention of this Commission is required. The complaint is disposed off.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 20<sup>th</sup> day of July, 2012.

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