

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 28/SIC/2011

Joan Mascarenhas E. D'Souza,
H. No. 315/4, Tropa Vaddo,
V.P. Sodiem-Siolim

... Complainant.

V/s.

Public Information Officer,
Superintendent of Police (North),
Porvorim – Goa

... Opponent.

Complainant in person.

Shri R. Karpe, P.I. representative of Opponent.

O R D E R

(06.06.2012)

1. The Complainant, Smt. Joan Mascarenhas e D'Souza, has filed the present Complaint praying that a thorough inquiry be conducted including inspection of records and proceedings be called from the office of the Opponent in order to ascertain the information which the P.I.O. has concealed/evaded in a malafide manner; that penalty be imposed on the P.I.O. under Section 20(1) of the Act for providing evading/misleading information and refusing to provide the information which was specifically sought in a malafide manner; that disciplinary action be taken against P.I.O. under the service rules applicable to him; that concerned Public Authority be directed to pay a sum of Rs.250/- for information sought for which is not at all pertaining to the information specifically sought for plus and additional cost to the Complainant towards costs of the documents photocopied and placed before this Court and other reliefs.

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

That the Complainant had filed an application under Right to Information Act, 2005 ('R.T.I. Act' for short) seeking for copy of the written details on Station Diary by the P.S.I. Brandon D'Souza from date 25.05.2008 to 30.05.2008 specifically pertaining to the chapter case 149/08 filed by the P.S.I. Brandon D'Souza under Section 107 Cr. P.C. in the Court of SDM and Dy. Collector, Mapusa vide Police Report No. PI/MAP/5806/2008 dated 30.05.2008 against the Complainant's husband

Domnic D'Souza based on a complaint of Maxy Fernandes and Roque Fernandes both residents of Sodiem Siolim. That the said station diary entries recorded by the P.S.I. Brandon D'souza were specifically sought. That a letter was received from the P.I.O. to collect the information upon payment of processing fees of Rs.250/- for document charges. That on collecting the information it was found that the complete station diary records of the Mapusa Police Station pertaining to the period dated 25.05.2008 to dated 30.05.2008 were furnished and upon thorough scrutinizing the station diary entries recorded in English and Marathi the Complainant found that the P.I.O. has given evasive and misleading information but has not given the information specifically sought. Hence the present Complaint on various grounds as set out in the Memo of Complaint.

3. The Opponent resists the Complaint and the reply of the Opponent is on record. In short it is the case of the Opponent that on 24.12.2010 a written application was received which was filed by the Complainant under R.T.I. Act. That the required information was made available to the Opponent by SDPO Mapusa I and Police Inspector Mapusa Police Station and the said information was submitted to the above Complainant within the time limit as prescribed in the R.T.I. Act and the said was collected by the Complainant upon payment of processing fees of Rs.250/- as document charges. That the required information asked has been furnished to the Complainant. Hence the Complaint deserves to be dismissed.

4. Heard the arguments. The Complainant submitted in detail the facts of the case and also referred to para 3 of the Complainant. According to her there is no mention of P.I. Brandon D'souza and whatever asked is not given. She next submitted that information furnished is misleading and evasive. She also submitted about refund of the fees and relied on rulings of C.I.C. copy of which are on record. Written arguments of the Complainant are also on record.

P.I. Rajesh Kumar on behalf of Opponent submitted that available information has been furnished and that the correct information as available is furnished.

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 by letter dated 24.12.2010 the Complainant sought certain information i.e. copy of the written details on station diary by the P.S.I. Brandon D'Souza from the date 25.05.2008 to date 30.05.2008. By reply 18.01.2011 the P.I.O. requested the Complainant to collect the information on payment of Rs.250/- towards document charges. It is seen that by letter dated 18.01.2011 the information is furnished. The necessary payment was made on 25.01.2011 as can be seen from the Xerox copy of the receipt. It is seen that the information is furnished in time.

According to the Complainant information is furnished but what is given is not correct but misleading. Another submission is about refund of the amount.

6. The Complainant contends that incorrect, evasive and misleading information is furnished. This is disputed by the representative of the Opponent. According to him the information as sought has been furnished.

It is to be noted here that the purpose of R.T.I. Act is per se to furnish information. Of course Complainant has a right to establish that information furnished to her is false, incorrect, incomplete, misleading, etc., but the Complainant has to prove it to counter Opponent's claim. The information seeker must feel that he got true and correct information otherwise purpose of R.T.I. Act would be defeated. It is pertinent to note that mandate of R.T.I. Act is to provide information – information correct to the core and it is for the Complainant to establish that what she has received is incorrect, incomplete and misleading. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the Complainant must be given an opportunity to substantiate that the information given to her is incomplete/incorrect, misleading, etc., as provided in section 18(1) (e) of the R.T.I. Act.

7. Regarding refund of fees. Whether to refund or not, these aspects will have to be considered after the inquiry as mentioned above is concluded.

8. In view of the above, I am of the opinion that no intervention of this Commission is required as information is furnished. The Complainant should be given an opportunity to prove that information furnished is false, misleading, etc. Hence, I pass the following Order:-

ORDER

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

The Complainant to prove that information furnished is incorrect, misleading, etc.

Further inquiry posted on 27.08.2012 at 10:30a.m.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 06th day of June, 2012.

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