

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 100/SIC/2011

Mr. Norman Albuquerque,
H. No. 215A,
Alto de Porvorim,
Bardez – Goa Complainant
V/s.

- 1) The Mamlatdar of Bardez,
Public Information Officer,
Government Complex at Mapusa,
Bardez – Goa ... Opponent No. 1
- 2) The Dy. Collector, SDO,
Mapusa Sub Division,
Appellate Authority under RTI Act,
Govt. Complex, First Floor,
Mapusa, Bardez – Goa ... Opponent No. 2

Complainant in person.

Shri R. Mayenkar, represent of Opponent No. 1.

ORDER
(18.06.2012)

1. The Complainant, Shri Norman Albuquerque, has filed the present Complaint praying to impose penalty on the P.I.O. and Opponent No. 2/F.A.A. under the provisions of Section 20(1) of the R.T.I. Act; that to decide case on merits and evidence produced; that to initiate the disciplinary action/proceedings against respondent No. 1 and 2 and to direct Respondent No. 1 and 2 to supply the said documents information requested by the Complainant/petitioner at the earlier date.

2. The case of the Complainant is fully set out in the Complaint. In short the case of the Complainant is that the Complainant, vide an application dated 29.01.2011, 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. 1. That the P.I.O. did not furnish the information within 30 days and therefore the Complainant filed an appeal before the First Appellate Authority (F.A.A.)/Opponent No. 2. However by order dated 13.05.2011 the F.A.A. dismissed the appeal. Being aggrieved by the order

of the F.A.A. the Complainant preferred the present Complaint on various grounds as set out in the Complaint.

3. In pursuance of the notice Shri R. Mayenker, representative of the Opponent No. 1 remained present. He did not file any reply as such, however, he advanced arguments.

4. Heard the arguments of the Complainant and the representative of the Opponent No. 1.

The Complainant referred to the facts of the case in detail. According to him there is no personal information. All documents in connection with electoral process are public documents. He next submitted that it is the duty of the P.I.O. to give the provision under which the same is exempted. That the said provision is not given and hence it cannot be said to be protected.

5. The representative of the Opponent referred to the Handbook. He also referred to the Appellate Order and submitted that the appeal was dismissed. According to him the appeal is liable to be dismissed.

6. 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 vide application dated 28.01.2011 the Complainant sought certain information i.e. documents produced for electoral Roll – epic card such as birth certificate copy, ration card copy, marriage certificate, etc. of Tereza D'souza Sr. No. 614 and of Lorraine D'Souza Sr. No. 615 of Siolim Assembly Constituency, Epic Card Nos. were also given. It is seen from record that by reply dated 28.02.2011 the P.I.O. informed the Complainant that information sought by him cannot be issued since the same is exempted as per the instructions issued by the Hon'ble Election Commissioner as contained in the Handbook of Electoral Registration Officer at para 23 page 57, and that information in respect of individual entries cannot be issued under R.T.I. Act as the same is exempted under Section 8(1)(j) of the R.T.I. Act.

Being not satisfied the Complainant preferred an appeal. By order dated 13.05.2011 the F.A.A. observed as under:-

“.....

The Appellant is asking for the information as regards to the individual entry in respect of Serial No. 614 and 615 of Section 3, Part No. 29 of 6-Siolim Assembly Constituency as the same cannot be given as the same is been exempted as per the instructions issued by the Hon'ble Election Commission as contained in the Handbook of Electoral Registration Officer at para 23, page 56 and 57. Hence the same is been exempted under Sec. 8(1)(j) of Right to Information Act hence the Appeal filed by the Appellant deserves to be dismissed. In view of the above the appeal dated 29.03.2011 filed by the Appellant stands dismissed.”

7. I shall now refer to some provisions of Handbook For Electoral Registration Officers.

“Inspection of Electoral Rolls and certified copies of Electoral Rolls.

20. Every person shall have the right to inspect the election papers referred to in rule 32 of the RER, 1960 and to get attested copies thereof on payment of such fee as may be fixed by the CEO.

22. It should be noted that an applicant can apply only for a certified copy of an entry pertaining to oneself in a photo roll. Request for obtaining certified copy of entry relating to others in a photo roll should not be entertained so that photo of one person is not supplied to another person.

23. However attested copies of electoral roll in full with or without photo should be supplied if demanded under Right to Information Act, 2005 ('R.T.I.') or Rule 33 of RER 1960. Individual entries or selective pages should not be given under R.T.I. Application received under R.T.I. should be dealt in the context of Section 8(1)(j) of R.T.I., 2005 which is as under:-

“8. Exemption from disclosure of Information:-

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen.

(a).....

(b).....

(c).....

(d).....

(e).....

(f).....

(g).....

(h).....

(i).....

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information;”

I have enumerated above the relevant provisions. As per Handbook for Electoral Registration Officers there are four kinds of revision namely (i) intensive, (ii) summary, (iii) partly intensive and partly summary, (iv) special. In an intensive revision, Enumerator/BLOs visit each house and note down the particulars of eligible members of the house in an Electoral Card. A copy of the Electoral Card is handed over to the head of the household or, in his absence, to any adult member of the family. On the basis of such enumeration, draft rolls are prepared and published, inviting claims and objections. After disposal of such claims and objections, the rolls are finally published.

During arguments the Complainant has filed a reply dated 21.03.2011 from Joint Mamlatdar-II in response to the application dated 28.02.2011. As per the same it is informed that entries in the electoral roll at Sr. No. 614 and 615 Section 3 Part 29 of 06-Siolim Constituency were entered during the Intensive Revision carried out in the year 2005, 2006 by the then Enumerations by conducting door to door survey and during Intensive Revision neither Form 6 nor any documents were required to be produced.

By the present application the request is of similar nature. Shri Mayenker, representative of Opponent submits that the said documents are not available.

8. Under R.T.I. only available information is to be furnished. There is no obligation to furnish non-existent information i.e. information which is not held by the Public Authority.

9. In view of this position it is not possible to grant the request of the Complainant. Hence, I pass the following Order:-

ORDER

No intervention of this Commission is required as information is not available. The Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 18th day of June, 2012.

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

