

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 05/SIC/2010

Mahesh Kamat,
Shivnery Cooperative Housing Society,
Comba,
Margao – Goa

... Complainant.

V/s.

Legal Assistant,
Deemed Public Information Officer,
Kadamba Transport Corporation,
Paraiso de Goa Building,
Alto Porvorim – Goa

... Opponent.

Complainant in person.

Opponent alongwith Adv. P. Agrawal.

O R D E R
(02.07.2012)

1. The Complainant, Shri M. P. Kamat, has filed the present Complaint praying that the Opponent be directed to make submissions on records stated as not available as not existing in the records of the Public Authority or not available with the Opponent while in his possession since 15.10.2007; that the Opponent be directed to make submission on why application of the Complainant was not disposed off as rejected on the grounds of non-availability of records since the public Authority under the Act is bound to furnish the records actually created by that authority and not to create the records afresh and furnish to the applicant; that penalty be imposed as custodian of records which were duly segregated/consolidated/serially numbered and officially handed over to Opponent on 15.10.2007 by the Personnel Manager and held in the custody by the Opponent since that date, as per law for denying the information and misguiding the Complainant; that the penalty be imposed on the Opponent for failure to transfer the application under Section 6(3) of the Act to Shri Goel, MD/Shri Amey Kakodker, Advocate/Board of Director KTCL, Personnel Manager, KTCL and that compensation be granted to the Complainant.

2. That the Complainant filed an application dated 06.01.2009 seeking information about the compulsory retirement issued to the Applicant and the related matters from the P.I.O. Kadamba Transport Corporation Ltd. (K.T.C.L.). That the P.I.O. KTCL vide letter dated 27.02.2009 prevailed upon the Legal Assistant to furnish the desired information bringing to his notice as many as 4 prior reminders pinpointing the delay in furnishing the information under the Act and his responsibility under the Act as Deemed P.I.O. That the Applicant filed the appeal before the First Appellate Authority which the said Authority disposed off vide order dated 05.02.2009 directing the P.I.O. to furnish the information as per the provisions of the Act. That the Complainant filed the second appeal before the State Information Commission dated 16.02.2009 which appeal the Appellate Authority was pleased to allow vide order dated 18.11.2009 directing the deemed P.I.O., the Legal Assistant, to furnish the desired information within 20 days and report compliance to the Commission on 18.12.2009. That the deemed P.I.O., Legal Assistant posted the reply dated 15.12.2009 on 17.12.2009 which the Complainant actually received on 18.12.2009 around 04:00p.m. That the information received is completely false, incomplete, erroneous and garbled information. Being aggrieved the Complainant filed the present Complaint on various grounds as set out in the Complaint.

3. The case of the Opponent is fully set out in the reply which is on record. It is the case of the Opponent that the information as available with the Opponent was already forwarded to the Complainant. That the Opponent complied with the order of the Commission. That the deemed P.I.O. was on leave w.e.f. 01.12.2009 to 31.02.2009. Opponent denies that information is false, incomplete, erroneous and garbled information. The Opponent also denies the grounds set out in the Complaint.

4. Heard the Complainant as well as Adv. P. Agrawal for the Opponent. Written arguments of the Complainant are 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?

It is not in dispute that information was sought. It is also not in dispute that First Appeal was filed and then Second Appeal was filed.

I have also perused the order dated 18.11.2009 passed by the Hon'ble SIC. I need not refer to all these as the Complainant in para 5 of the Complaint states "the deemed P.I.O., Legal Assistant posted a reply dated 15.012.2009 on 17.12.2009 which the Complainant actually received on 18.12.2009 around 4p.m.....".

The only grievance of the Complainant is that the information furnished is false, misleading, etc.

6. According to the Complainant information furnished is false, incomplete, erroneous and garbled information. This is disputed by the Advocate for the Opponent. According to him the information furnished is correct as available on record.

It is to be noted here that information as 'held' or available with the Public Authority is to be furnished. R.T.I. Act can be invoked only for permissible information as available with the public authority.

It is to be noted here that purpose of R.T.I. Act is per se to furnish information. Of course Complainant has a right to establish that information furnished to him is false, incorrect, misleading etc. but the complainant has to prove it to counter opponent's claim. The information seeker must feel that he got the true and correct information. Otherwise the purpose of R.T.I. Act would be defeated. It is pertinent to note that the 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 he has received is incorrect and incomplete. 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 him is incomplete, incorrect, misleading etc as provided in Sec.18 (1)(e) of the R.T.I. Act.

7. In view of the above I am of the opinion that the Complainant should be given an opportunity to prove that the information is incomplete, incorrect, misleading, etc. Hence, I pass the following Order:-

ORDER

Complaint is partly allowed. The Complainant to prove that information furnished is false, incomplete, misleading, etc.

Further inquiry posted on 06.09.2012 at 10:30a.m.

Pronounced in the Commission on this 02nd day of July, 2012.

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