

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 108/SCIC/2012

Shri J. T. Shetye,
Mapusa Jana Jagruti Samiti,
Khorlim,
Mapusa – Goa

... Complainant.

V/s.

1) Shri Damodar Morajkar,
Public Information Officer,
Under Secretary, Industries & Labour,
Secretariat,
Porvorim – Goa

... Opponent No. 1.

2) Public Information Officer,
Shri Hanumant Toraskar,
Mapusa Municipal Council,
Mapusa - Goa

...Opponent No.2.

3) First Appellate Authority,
Directorate of Municipal Administration &
Urban Development, Collectorate Bldg.,
Panaji – Goa

.... Opponent No.3.

Complainant in person.

Opponent No. 1 in person.

Shri Vinay Agarwadker, representative of Opponent No.2.

Miss Biju Naik, representative of Respondent No.3.

O R D E R

(25.07.2012)

1. The Complainant, Shri J. T. Shetye, has filed the present Complaint praying that there is a contradiction amongst the P.I.Os Shri Damodar Morajker and Shri Hanumant Torasker and therefore the Commission should initiate inquiry in the matter and that the penalty clause as per Section 20(1) and 20(2) of the R.T.I. Act be invoked against both P.I.Os Shri Damodar Morajker and Shri Hanumant Torasker.

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

That the Complainant, vide his application dated 22.02.2010, 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 and 2. That the P.I.O Shri Damodar Morajker provided information, vide his letter dated 20.03.2012, which was received by the Appellant after the expiry of

stipulated period of 30 days. That the information provided was incomplete and misleading and therefore First Appeal was filed before the First Appellate Authority/Opponent No. 3 under Section 19(1) of the R.T.I. Act. By order dated 10.05.2012 the F.A.A. /Opponent No. 3 directed the Respondent/P.I.O. to supply the information within 10 days by invoking provisions of Section 5(4) and 5(5) of the R.T.I. Act, 2005 without any cost. That the P.I.O. Shri Hanumant Torasker vide his letter dated 19.06.2012 informed the Complainant that his office has already furnished the required information vide letter dated 20.03.2012 and besides this there is no any information available in his office. Being aggrieved the Complainant has filed the present Complaint.

3. In pursuance of the notice issued the Opponent No. 1 appeared and Miss Biju Naik, representative of Opponent No. 3/F.A.A. has filed the reply which is on record.

It is the case of the Opponent No. 3 that the First Appeal was filed and the same was disposed by him after hearing the parties.

4. Heard the Complainant and the Opponent No. 1 and perused the records of the case.

It is seen that by application dated 22.02.2012 the Complainant sought certain information consisting of 12 points/items Sr. No. 1 to 12. By reply dated 20.03.2012 the information was furnished. Being not satisfied with the information provided the Complainant preferred an appeal before the F.A.A./Opponent No. 3 By order dated 10.05.2012 the F.A.A. observed as under:-

“On 7-5-2012 the Appellant requested for invoking provisions of Sec 5(4) and 5(5) of the Right To Information Act, 2005. The Respondent agreed to the Request. Matter disposed off with directions to the Respondent to supply information within 10 days by invoking subject provisions of R.T.I. Act free of cost.”

It is the grievance of the Complainant that this order is not complied with. This order has not been challenged and therefore the same stands. Opponents/P.I.O. will have to comply with the same.

5. Under R.T.I. Act the P.I.O. is duty bound to furnish the information available with the public Authority or as 'held' by the public Authority. As all information required to be furnished may not be readily available with the P.I.O. he may seek the assistance from any other officer of the public authority as may be considered appropriate to enable him to discharge duties in proper way so that information is furnished within prescribed period. It follows that the law establishes a right of the P.I.O. to have the assistance from concerned officers of public Authority.

Normally it is for the P.I.O. to seek assistance if he needs.

In the present case Order is passed by the F.A.A. and as I mentioned above the same has not been challenged and therefore the same stands. The Opponent will have to comply the same.

6. There is nothing on record to show that P.I.O. tried to comply the order. In any case P.I.O. should see that information is furnished as decided by F.A.A. In case the same is not complied the aspect of delay, etc. would be considered.

7. In view of the above I pass the following Order:-

ORDER

Complaint is allowed. The Opponent No.1/P.I.O. to comply with the order of the First Appellate Authority passed on 10.05.2012 in Appeal No. 143/D.MA/R.T.I./2012 and/or to furnish the information which was not furnished so far, **free of cost, within 20 days from the receipt of this Order.**

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 25th day of July, 2012.

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