

# **GOA STATE INFORMATION COMMISSION**

**“Shrama Shakti Bhavan”, Ground Floor, Patto Plaza, Panaji – Goa.**

**CORAM:** Smt. Leena Mehendale, State Chief Information Commissioner

**Complaint 122/SCIC/2012**

**Decided on: 27/02/2014**

Mandar Madhukar Naik,  
H.No. 453,  
Jognibhat Manerkarwada,  
Vastawada, Curchorem – Goa.

V/s

- 1) Public Information Officer (PIO),  
Agnelo Fernandes,  
Chief Officer of Curchorem-Cacora Municipal Council,  
Curchorem – Goa.
- 2) First Appellate Authority (FAA),  
Sandip Jacques,  
Director of Municipal Administration & Urban Development,  
Collectorate Bldg., Panaji – Goa.

## **ORDER (Open Court)**

This Complaint has been filed on 13/08/2012. A brief chronology of the case is that the Complainant here had made the original RTI application on 23/04/2012 to the PIO namely Chief Officer of Curchorem-Cacora Municipal Council. The information asked for, pertained to a letter written by the Municipal Council on 29/03/2012 under which the Complainant was informed that the Municipal Council did not have documents to register the house tax of Smt. Kala Naik for the house bearing No. 456 at Manerkarwada at Jognibhat, Curchorem. The Complainant was apparently aggrieved by the fact that a particular tax receipt bearing No. 400297 described the above mentioned house as being owned by Smt. Kala Naik, and hence he is suspecting some mischief by the Municipal Council.

The reply was given by the PIO on 17/05/2012 which was unsatisfactory. As such the First Appellate Authority namely Director of Municipal Administration has directed that specific information should be given in respect of question No. 1 b, c & d free of cost. The order of the Appellate Authority was passed on 12/07/2012 and the information in respect of those three points allowed was furnished to the Complainant on 07/08/2012. However, the questions asked under the RTI application Para 1A and Para 2 which were not answered by PIO, have not been commented upon by the FAA.

It is alleged at ground 3 of the Complaint that the Opponent No. 1 issued false and incomplete information, considering the fact that the house for which the tax receipt was issued to Smt. Kala Naik was illegal. The original RTI application does not use the word "WHY". But the PIO has taken the plea that the definition of information cannot include answers to any questions asking "WHY". Hence it is prayed in the Complaint Memo to take penal action against the PIO under Section 20, because he has refused information on false grounds..

During the hearing, Complainant was present. PIO was absent but had earlier filed his written statement in this matter on 15/11/2012, which was the previous date for hearing and he was present. The responsibility therefore lies on him to keep a track of subsequent dates of hearing. If he chooses to remain absent, he has to accept consequence. Hence it was decided to hear and finalise the matter even in his absence.

The matter was heard ex-parte. The Complainant does not wish to pursue the prayer No. 1 for which the competence lies elsewhere. He however wishes to pursue Prayer No. 2 and 3 under Section 20 (i) for Penal action as under.

*"(b) That the opponent no. 1 may be penalized separately due to the false letter issued to the applicant stating the word "WHY" by misleading the powers in the letter no. CCMC/Tech-Sec/RTI/2012-13/0630 dated 17/05/2012.*

*(c) The opponent may be directed to pay a penalty of Rs. 250/- per day after seven days, from the date of refusal of information by receiving the order of the first appellate authority vide order no. case no. 155/DMA/RTI/2012/1016, dated 12/07/2012. "*

After hearing the Complainant and after going through the written submission by the Opponent PIO and also after going through the reply of the PIO to the initial RTI application, I find that this Complaint was presented to SCIC's office on 08/08/2012, and on same day he has also received reply from PIO in compliance with the order of the FAA. It was the duty of the Complainant to bring this fact on record which he failed to do in time. I therefore conclude that no further information has remained to be supplied to the applicant. He will have to pursue prayer No. 1 of his Complaint with the appropriate competent authority.

This brings me to the question of delay. I hold that PIO has failed to furnish information in time and is liable for action under Section 20 of the Act. The Complainant is allowed to pursue his Prayer No. 2 and 3. Registry should open a new Penalty case and issue fresh notice to the then PIO under Section 20(1) thus giving him one final chance to explain as to why penalty should not be imposed on him. The present Complaint case is partly allowed with the above directions. The decision is declared in Open Court. Inform parties.

Sd/-

**(Leena Mehendale)**

Goa State Chief Information Commissioner  
Goa State Information Commission  
Panaji-Goa