

GOA STATE INFORMATION COMMISSION

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

CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

Complaint 143/SIC/2012

Decided on 06.02.2014

Caetano Paul Antao
C.P.No. 514, Central Jail,
Aguada

----- Complainant

V/S

Nutan D. Sardessai,
Court of Session Judge Principal
Legal Service, South Goa.

---- Opponent

O R D E R (Open Court)

1) The Complainant herein is a criminal prisoner no. 514 from the prison of Central Jail, Aguada Bardez. He submits his letters by putting them in the complaint box of the jail from where the District Judge –I & Addl. Sessions Judge, Mapusa sends it to relevant office.

2) This Complaint application arises out of original RTI application dated. 05/06/2012, filed by him. It was received by the Registrar of SCIC but it pertained to certain grievance and complaint against Additional session Judge South Goa at Margao. Hence the Registrar of SCIC transferred it on 26/06/2012 under section 6 (3) of the RTI Act to the Additional Session Judge South Goa Margao with copy to the Complainant.

3) The Complainant wrote yet another applications on 06/08/2012 to the Court of Session Judge South Goa, which was received by District Judge- 1 & Addl. Sessions Judge, Mapusa and he forwarded it to the Principal District and Session Judge South Goa on 13/08/2012.

4) In reply to both, the Registrar and PIO of District and Session Court South Goa wrote to the Jailer of Central Jail Aguada on 23/08/2012 (dispatched on 4/09/2012) stating that *“It is not clear from the application dated 06.08.2012 of the prisoner Caetano Paul Antao, what information is required by him under the Right to Information Act. The prisoner may also be informed that copy of the documents and Judgment in Judicial proceedings cannot be issued under Right to Information*

Act and that he may apply for certified copies of the said documents and Judgment in Judicial Proceedings to the concerned Court if he so desire”.

5) Thereafter the Complainant wrote an application dated 05/09/2012 to the State Information Commissioner mentioning his earlier application dated 05/06/2012. It also bears a covering letter dated 05/09/2012. Both were forwarded by Superintendent of the office of the District and Session court North Goa Panaji to the office of the GSIC and received on 27/09/2012. Accordingly the present Complaint case No. 143/SIC/2012 between Caetano Paul Antao, C.P. No. 514, Central Jail Aguada V/s Smt. Nutan Sardessai, Court of Session Judge Principal Legal Service, South Goa was registered and a notice was issued on 14/11/2012 fixing the hearing on 11/01/2013. The Complainant filed a repeat application on 19/02/2013 before the GSIC.

6) On perusal I find that both the applications dated 05/06/2012 and 06/08/2012 addressed to District and Session Judge South Goa are apparently written in English but in an un-understandable language. The Complainant who is a Prisoner at a Central Jail Aguada seems to have grievance against the judges of District and Sessions Courts of South Goa for having ordered action against him. His Complaints vaguely talk of the arrest of the applicant in January 1990 and some proceeding under section 302 of IPC.

7) In view of this the PIO of the District and Session Court South Goa had replied on 23/08/2012 to the Jailer that the RTI application was unclear. He further stated that copies of Judgements in Judicial proceedings cannot be issued under RTI Act, but the applicant will have to follow a separate procedure to get a certified copies. This letter was dispatched on 04/09/2012 so as to reach the complainant through the Jailer.

8) Thereafter the applicant has filed the present complaint to this office who subject reads as below:

“Request to direct District and Session’s Judge, Smt. Nutan Sardessai to furnish information”.

It was received in this office on 27/09/2012 and it was taken by this office as a complaint under section 18(f) of the RTI Act and notice was issued to the

Respondent. It is pertinent to note that the posts of SCIC and SIC were both vacant and the hearing was taken up before the present SCIC for the first time on 25/11/2013. The Registrar of the District Court of South Goa who is also the PIO was present.

The following Rojnama was noted:

Complainant absent

Registrar of the District Court of South Goa Present on behalf of Opponent.

From the record it appears that one application was received by the PIO of this Office from applicant Caetano Paul Antao C.P. No.514 seeking information under section 6 of the RTI Act, 2005. As the matter was pertaining to Additional Session Judge, South Goa, the same was transferred vide letter No. GSIC/F-94/2012/RTI/629 dated 26.06.2012 under section 6(3) to the Additional Session Judge, South Goa under intimation to the Applicant.

Thereafter, Complainant's application was received on 05/09/2012 making out a case against the Opponent for further action and to furnish the information.

Notice was issued to the Opponent on 27/09/2012 fixing the hearing on 10/01/2013. After a few adjournment the case came up for hearing today, when the Registrar of District & Sessions Court was present on behalf of the Opponent. A written statement of the Opponent is already filed on 10/01/2013 explaining following 2 important points:-

- a) *Any application filed under RTI for purpose of seeking any information from court is governed by rules framed under section 28 of the Right to Information Act, 2005. The competent authority as defined by section 2(3) for this purpose is High Court, who have formed their rules. The application was not in conformity with the rules laid down by the High Court of Bombay. Rule 14 is applicable for Goa, Daman & Diu and Dadra and Nagar Haveli as published by the High Court of Notification No. P. 0703.2009 dated 30.11.2009 which has been published in the Goa Government Official Gazette, Series II No. 40. In light of that, present matter needs to be seen.*

b) *The original application dated 05/06/2012 falls far below any comprehension hence he has informed the Jailor of the Central Jail Aguada to ask the original Complainant to clarify what exact question he wanted to ask and also to make available some legal aid so as to help him to formulate his question. Registrar would be filing his letter to the Jailor on next date of hearing on which date the personal presence of the Respondent is not necessary. The presence of the Registrar who is also the PIO under High Court Notification will be sufficient.*

I also find an unsigned paper in the documents of this case dated 14/01/2013 whose language suggest that it is a request from the Complainant to Goa State Information Commission to instruct the Jail Authority to make arrangement to produce him before the State Information Commission. The language of this application has far more clarity and follows the rule of Grammar of English language when compared with the language in Complainant application received on 06/08/2012 or on 05/09/2012. In the first application the Complainant speaks of death penalty and it is not clear as to what exact information he is wanting and regarding whose death penalty. Thus there arises a doubt whether the application requesting to be brought before SCIC is written by same person. In any case I find no need of his presence before me at this stage till the points mentioned at 1 & 2 above are considered.

A copy of Roznama should be delivered to the Complainant through Jailor”.

9) However, the PIO of District and Session Court South Goa was directed to make one more attempt. Accordingly through his letter No.DSC/MAR/RIA-436/2013/10827 dated 28/11/2013, he informed the prisoner/complainant that “*he should make an application mentioning therein the specific information required by the complainant under the RTI Act from the concerned PIO. If the complainant finds any difficulty in making the application, the said prisoner/complainant may take the assistance of the Legal Aid Council for the said purpose. The prisoner/complainant may also be informed that the copies of the documents and judgments in Judicial proceedings cannot be issued under RTI Act and that he may apply for the said copy of the said documents/judgments in Judicial proceedings to the concerned court, if he so desires*”.

10) The matter finally came on 06/02/2014 when it was noted that the PIO Registrar has given an intimation to the Jailor as directed in the last Roznama. Nothing has been heard further from the applicant.

11) In view of the absolute non-clarity of the application received from the complainant there is no merit in the present complaint. The same is therefore dismissed. Order declared in open court. Inform the parties.

Sd/-

(Leena Mehendale)

Goa State Chief Information Commissioner
Panaji – Goa.