

## **GOA INFORMATION COMMISSION**

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Penalty Case No. 05/2008 in  
Complaint No. 87/2007

Shri. J. T. Shetye,  
C/o. Mapusa Jana Jagruti Samiti,  
H. No. 35, Ward No. 11,  
Near Akshay Durga Co-op. Housing Society Ltd.,  
Khorlim, Mapusa – Goa.

..... Complainant.

V/s.

The Public Information Officer,  
The Chief Officer,  
Mapusa Municipal Council,  
Mapusa – Goa.

..... Opponent.

### **CORAM:**

Shri A. Venkataratnam  
State Chief Information Commissioner  
&  
Shri G. G. Kambli  
State Information Commissioner

(Per A. Venkataratnam)

Dated: 29/09/2008.

Complainant in person.

Opponent also in person.

### **ORDER**

This refers to a show cause notice issued to the Opponent by our order cum notice dated 30/07/2008 while disposing off the complaint No.87/2007. In the main appeal, we have given a finding that the information requested by the Complainant was not given by the Public Information Officer but was given by the Asst. Public Information Officer who is not competent to do so and that the information was not given within 48 hrs. as required under proviso to sub-section (1) of section 7 of the Right to Information Act, 2005 (for short the RTI Act). We have also directed the Opponent to give his say within 15 days from the date of the order why penalty proceedings should not be initiated against him under section 20 of the Act.

2. The Opponent has replied to the notice on 18/08/2008 which was further posted for arguments. The matter was adjourned once again and was finally argued by the parties.

...2/-

3. In his reply, the Opponent has not answered both the points raised in the order namely, not giving the information by the Public Information Officer and not giving information within 48 hrs. Instead he went on elaborating how he is busy with the Secretariat administrative work even after leaving the charge of post of the Under Secretary in the Secretariat; how the Complainant made frivolous application in seeking information; how the information sought is not covered by the proviso to section 7(1) about which he was not asked. The reply, instead of showing cause why he should not be penalised, challenges the findings of the Commission that the information need to be given within 48 hrs. He cannot do this, at least, before this very authority. If he is aggrieved of the order of this Commission, the correct thing for him to do was to challenge the order of this Commission before the Competent Authority. He cannot raise irrelevant points by way of reply to the show cause notice. For instance, the very fact that the fish market has not collapsed even now, does not in any manner negate the observations of the officials of the Municipal Council itself that it is in dangerous and dilapidated condition. In any case, the question asked and the answer given do not require any great preparation of over 20 days to give a reply. The date of reply itself, though dated 24/03/2008 was not served on the Complainant on that date. The Opponent himself submitted that the Complainant received the reply on 18/04/2008. The reply sent by post by the Municipal Council is no doubt entered in the outward register on that day. But it does not confirm that actually it was posted on that day much less received by the Complainant. In any case, the fact of delay was already established by this Commission in its earlier order. There is no question of considering the reply to the show cause notice to review our own decision. This being the case, we are of the opinion that the Opponent has not discharged his liability to reply to the Complainant within due time allowed under the Act. We are also not convinced about his defense of other work or about his bad health as mitigating factors. However, in view of the unconditional apology tendered by the Opponent, we do not wish to impose any penalty on him. He is warned to be more careful in future, in disposing of the requests for information under the RTI Act.

4. We have observed that lot of inconveniences, hardships and detriment have been caused to the Complainant in these proceedings and

this is the deserving case for awarding compensation to the Complainant. However, in view of the stay order passed by the Hon'ble High Court in Writ Petition No. 326/2007 wherein the point has been raised that the Commission has no powers to award compensation under section 19(8) of the RTI Act in a complaint filed under section 18 of the RTI Act. Being so, we cannot award any compensation to the Complainant.

Pronounced in the open court on this 29<sup>th</sup> day of September, 2008.

Sd/-  
(A. Venkataratnam)  
State Chief Information Commissioner

Sd/-  
(G. G. Kambli)  
State Information Commissioner