

GOA INFORMATION COMMISSION

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

Complaint No. 25/SCIC/2008

Shri. Jose Cruz F. Gomes,
H. No. 67-A, Bazar, Cuncolim,
Salcete – Goa.

..... Complainant.

V/s.

The Public Information Officer,
The Chief Officer,
Cuncolim Municipal Council,
Cuncolim, Salcete – Goa.

..... Opponent.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 20/10/2008.

Complainant present.

Opponent absent.

ORDER

This is a complaint for non-execution of the order dated 15/04/2008 of the first Appellate Authority directing the Opponent herein "to make all the possible efforts to trace the file or the record and make available to the Petitioner within a period of 10 days." Even after 6 months have passed by after the said order, no information was given by the Opponent. The efforts made by the Opponent to trace old records were also not filed before the first Appellate Authority. Earlier the Complainant has approached the Commission by second Appeal No. 49/SCIC/2008 which was dismissed because the Complainant has no grievance against the first Appellate Authority and hence, no second appeal lies. However, even as of today no information was given by the Opponent. When the notice was issued to the Opponent to remain present for the hearing and file a reply on 8/10/2008 the Opponent did not turn up. On 10th October, 2008, however, a written statement was filed on behalf of the Opponent. The person signing the written statement has not identified himself as the Opponent or his authorized representative. Apart from the fact that this is being filed in the registry and not in the open court, it does not contain any efforts made by the

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Opponent in tracing the records requested by the Complainant and giving the same to the Complainant. On the other hand, he submitted that the Complainant is causing harassment to the authority and that he cannot manufacture the information as the record is not available and that if the prayer of the appellant is allowed it will cause miscarriage of justice.

2. Apart from the fact that the Opponent is Chief Officer of the Cuncolim Municipal Council which is a successor of the earlier Cuncolim Village Panchayat, he is the custodian of all the records of the Municipal Council as well as its predecessor body, namely, Cuncolim Village Panchayat. The responsibility to take diligent steps to search for the old records lies on the Opponent. While it is true that the Public Information Officer cannot manufacture information, it is also true that he cannot reject the request of the citizens on the plea that the records are not traceable. This is not the first instance in which the Opponent replied that the old records of the Village Panchayat, which ought to be with the Municipal Council as a successor body, are not traceable. There is a justifiable suspicion that the Opponent has not put any sincere efforts to trace the old records. In an earlier order in another case, a direction was given by this Commission to the Director of Municipal Administration who is the first Appellate Authority under the Right to Information Act, 2005 (for short the RTI Act) to inspect the records of the Municipal Council of Cuncolim and furnish a report.

3. According to section 4(1)(a) of the RTI Act every public authority shall "maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated." It is over three years now since the Act has come into force. Leaving aside the computerization and connection through a networking all over the country, even a catalogued and indexed records system alongwith instructions for their preservation for a particular time and the manner of destruction after the expiry of the time are not notified by any public authority. Any further delay in such efforts, will erode the confidence of the citizens in the implementation of the RTI Act by the public authorities.

4. In view of the above discussion, I direct the Cuncolim Municipal Council, as the public authority, to catalogue and index all the available records including the records passed on from the erstwhile Village Panchayat of Cuncolim in a period of two months from the date of this order and file one copy with this Commission. The Director of Municipal Administration who has administrative control under Goa Municipality Act is directed to ensure the compliance of this order. He should monitor the work of cataloguing and indexing all the records of the Cuncolim Municipal Council and also of other Municipal Councils periodically and he should also submit a compliance report.

5. In the present case, I have no option but to accept the statement of the Chief Officer that the records requested by the Complainant are not available and it is not possible to implement the order dated 15/04/2008 passed by the first Appellate Authority. The complaint is dismissed with the above observations.

Pronounced in the open court on this 20th day of October, 2008.

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