

GOA INFORMATION COMMISSION

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

Complaint No. 15/SCIC/2008

Shri. Joe D'Souza,
H. No. 11, Near Custom House,
Panaji – Goa.

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Complainant.

V/s.

1. The Public Information Officer,
The Commissioner,
Corporation of City of Panaji,
Panaji – Goa.
2. Shri. Mariano Fernandes,
The Accounts Taxation Officer,
Corporation of City of Panaji,
Panaji – Goa.

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Opponents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 28/10/2008.

Adv. Ranjit Satardekar for the Complainant.

Adv. Shivan Desai for the Opponent.

ORDER

In this complaint, the Complainant brought out a grievance that the Opponent No. 1 as the Public Information Officer has not taken diligent steps and prompt action to give him the information and inspection of certain files. As there is a delay in complying with the provisions of section 7(1) of the Right to Information Act, 2005 (RTI Act for short), he has also requested to take penal action against the Opponents.

2. Notices were issued and the parties have submitted their written statements as well as argued the matter. A brief history of the case is as follows.

3. On 13/03/2008, the Complainant has requested for inspection of certain files of the Opponent No. 1. By a letter dated 15/04/2008, actually received by the Complainant on 18/04/2008, he was asked to call on the office of the Opponent No. 1 on any working day to inspect the files. It is the case of the Complainant that as no date and time was mentioned

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clearly, he had to approach the Opponent No. 1 many times and finally an opportunity was granted on 5/5/2008 on which day he inspected the files. According to him, this is clearly after the maximum time period allowed for disposal of request for inspection of files under section 7 of the RTI Act. Thereafter on 12/05/2008, he requested for certain documents. On 11/6/2008, a reply was sent by Opponent No. 1 inviting the Complainant to come and collect the copies after paying necessary fees. Neither the amount is informed nor the calculation of the fees is mentioned. It is again the contention of the Complainant that he had to approach the office of the Opponent No. 1 a number of times and only by letter dated 16/7/2008, he was informed the amount of Rs.80/- payable by him which he paid for and obtained the copies. Thus, the entire transaction has taken more than 4 months from 13/03/2008 till 16/7/2008 including the inspection of the files and collection of documents required. The Complainant further submitted that he has submitted evidence by way of production of photocopies of senior citizen card given to him to the Opponent No. 1 and inspite of that he was deliberately harassed and attributed malafides on the part of the Public Information Officer in delaying this information.

4. It is not denied by the Opponent No. 1 that the letter requesting for inspection of files was received by him on 13/03/2008 and that the letter informing grant of the request was received by the Complainant on 18/4/2008. As to the delay beyond 30 days there is a blank denial of delay by the Public Information Officer. However, this letter was dispatched by the Opponent No. 1, 36 days after the receipt of the request for inspection (period from 13/03/2008 to 18/4/2008). Apart from unexplained delay, the letter itself is incomplete in the sense that the date and time of inspection is not mentioned by the Opponent No. 1. Normally, this has to be done in order to avoid further inconveniences to the citizens as has happened in this case. Even if the allegation of the Complainant that he had called on the office of the Opponent No. 1 number of times being a senior citizen is not accepted, prime facie, there is reason for suspecting the bonafides of the Opponent No. 1 in not mentioning the exact time, date and venue for the inspection of the files as required under section 7 of the RTI Act. Section 2(j) defines "right to information" includes the right to "inspection of work, documents and records". When a request for inspection of the documents of a public authority is filed under

section 6(1) of the RTI Act, it has to be disposed off within 30 days of its receipt. This means, the entire work of informing the citizen of the date, venue and time of inspection, the officer before whom the inspection is allowed as well as the actual inspection of the documents should be completed in 30 days. This is clear as the citizens need not pay any further fees for inspection of documents for the first hour. In this case, therefore, the inspection should have been completed on or before 12/04/2008. It happened actually on 05/05/2008. Thus, there is a delay of 23 days in allowing the inspection of the documents. The law does not allow the Public Information Officer to grant inspection of documents in 3 stages, namely, first to permit the inspection on any "working day", next to fix the date of inspection and finally to allow the inspection. Similarly, it does not allow the supply of documents again in 3 stages, first to inform the citizen to pay further fees without mentioning the amount and then to inform the amount and finally to collect the fees and issue the documents.

5. Be that as it may, the request for documents dated 12/05/2008 itself was agreed by letter dated 11/6/2008 again dispatched on 18/6/2008. The period from 12/5/2008 to 18/06/2008 is 37 days, 7 days more than what is allowed under the RTI Act. Here again, the letter informing the Complainant to come and collect the documents is incomplete in so far as it does not mention how much amount he has to pay. We have already held in number of cases that the Public Information Officer has to inform as early as possible not waiting for the 30th day, the amount payable by the citizens for the documents requested but also the calculation of this amount as to how it is arrived at, so that the citizen makes up his mind whether to collect the information or not. We also laid down in our earlier decisions that the public authority should not waste its resources by photocopying the documents in advance of payment. We have even mentioned that the time spent by the citizen to pay the additional fees can be excluded from maximum time limit of 30 days allowed under the law to give the information. Such being the case, the delay in sending the incomplete letter to the Complainant to pay the fees without mentioning the amount is not explained.

6. There is no doubt that there is a delay by the Public Information Officer in giving required information to the Complainant. In the first case, it is 23 days for allowing the inspection of files and in second case, it is 7

days to actually give the documents. Thus, there is 30 days delay. In support of the claim of no delay, the Opponent No. 1 produced the copies of postal receipts, which only confirms that the letter dated 11/06/2008 is actually posted on 18/06/2008. This does not help the argument of the Opponent No. 1. On the contrary, it supports the case of the Complainant of the delay in intimating him the incomplete letter (without mentioning the additional amount payable by the Complainant).

7. I now come to the prayers of the Complainant. The Complainant has prayed for imposition of penalties on the Opponents and to recommend disciplinary action against them. No doubt, the Complainant was put to lot of hardships as discussed above. There is a case for awarding of compensation for the loss and detriment caused to him. However, the matter of awarding compensation in complaint proceedings before this Commission is under examination by the Hon'ble High Court of Bombay at Panaji Bench in Writ Petition No. 326/2007 wherein a stay was granted. I, therefore, refrain from awarding any compensation. However, there is a case for issuing of notice to the Opponent No. 1 i.e. Public Information Officer to explain why he should not be penalised at the rate of Rs.250/- per day delay of 30 days. The conduct of the Public Information Officer of the Corporation of City of Panaji while discharging his responsibility of supplying information to the citizens under the RTI Act was found to be wanting in a number of earlier cases as well. In a Complaint No. 77/2007 before the Commission, the Public Information Officer was directed to be more careful in future based on unconditional apology tendered by him. In another Appeal No. 59/SCIC/2008, a show cause notice was issued which is under decision. There is, therefore, reason to presume that the Public Information Officer did not take diligent steps in discharging his responsibilities under the RTI Act in this case as well. He should show cause by the next date of hearing on 5/12/2008 at 11.00 a.m., why the penalty should not be imposed on him as mentioned above.

Announced in the open court on this 28th day of October, 2008.

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