

GOA INFORMATION COMMISSION

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

Complaint No. 30/SIC/2008

Mr. Franky Monteiro,
H. No. 501, Devote,
Loutolim, Salcete – Goa.

..... Complainant.

V/s.

1. Public Information Officer,
Shri. Sanjeev C. G. Dessai,
The Deputy Collector (Revenue),
South Goa, South Collectorate Building,
Margao – Goa.
2. First Appellate Authority,
Mr. G. P. Naik,
The Collector & District Magistrate,
South Goa, South Collectorate Building,
Margao – Goa.

..... Opponents.

CORAM:

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 26/11/2008.

Complainant absent.

Adv. Harsha Naik, Government Counsel for the Opponent.

ORDER

This will dispose off the complaint dated 22/08/2008 filed by the Complainant under section 18 of the Right to Information Act, 2005 (for short the Act) against the Opponents praying to impose appropriate penalty on the Public Information Officer and the First Appellate Authority as both of them intentionally did not provide the information to the Complainant and made the Complainant to go through all unnecessary mental harassment, torture and caused undue delay of 10 months.

2. The notice was issued to the Opponent and the Opponent No. 1 has filed his reply and also additional written statement. The Complainant remained absent for the hearings. The facts of the case are already discussed in detail in the Commission's two orders dated 15/04/2008 passed in Appeal No. 123/2007-08/Dy.Col. and subsequent order dated 15/07/2008 passed in Complaint No. 11/SIC/2008. Hence, the same are not repeated again. In this complaint, the grievances of

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the Complainant are restricted to the information provided to the Complainant on point No. 2 of his request seeking information. At point No. 2, the Complainant had sought the following information from the Opponent No. 1 under the Act: -

“Whether illegal occupants in 20 point project in Seraulim village have been regularized or are in the process of being regularized.”

3. The Commission in its order dated 15th April, 2008 passed in the second appeal had made the following direction to the Opponent No. 1 so far as the point No. 2 is concerned:-

“We, therefore, direct the Public Information Officer to give a specific reply of the steps being taken to regularize the illegal possession of land of the occupants in the 20 point programme of Seraulim village. This information also be given to him within the next 5 days as it does not require collection of any material from any source.”

4. In pursuance of the said order of the Commission, the Opponent No. 1 by his letter dated 21/4/2008 informed the Complainant to collect copy of the letter No.16/1/99-RDF-6336/PF dated 18/01/2007 on payment of fees. The Complainant was already in possession of this letter and the same was also referred in the Commission’s order. As the Complainant was not satisfied with the said reply of the Opponent No. 1, the Complainant filed a complaint before this Commission being Complaint No. 11/SIC/2008. The Commission after hearing the parties passed an order dated 15th July, 2008 and held that the Opponent No. 1 did not provide the information on point No. 2 and tried to mislead this Commission and therefore, the Opponent No. 1 was directed to provide the correct and complete information on point No. 2 as per the order dated 15/04/2008 within a week’s time from the date of the order.

5. In compliance with the said order dated 15/07/2008, the Opponent No. 1 informed the Complainant vide his letter dated 18/07/2008 that 76 cases were regularized under 20 point programme at Seraulim village as per the approval of the Government. The case of the Complainant is that the Opponent No. 1 could have provided this correct information earlier in the beginning itself. The Complainant,

therefore, submits that the Opponent No. 1 has misguided and provided a false information to the Complainant earlier and therefore, the Opponent be penalised.

6. The Opponent No. 1 in his reply and in his additional written statement has taken various grounds and submitted that the present complaint of the Complainant be dismissed. The most of the grounds taken by the Opponent No. 1 have already been discussed by this Commission in its earlier order and the same were rejected. The one of the grounds taken by the Opponent No. 1 in the additional written statement is that the complaint is liable to be dismissed outright as the Complainant has remained absent before this Commission for the last three hearings. In this contest, it is to be noted that as per Goa State Information Commission (Appeal Procedure) Rules, 2006, it is not mandatory or compulsory on the part of the Appellant/Complainant to remain present for the hearing. The Rule 7(2) of the said rules reads as under: -

“The appellant or the complainant, as the case may be, may, at his discretion, at the time of hearing of the appeal or complaint by the Commission, be present in person or through his duly authorized representative or may opt not to be present.”

7. Thus it will be clear from above rule that the Complainant or Appellant did not remain present before this Commission and as such Commission cannot dismiss the complaint solely on the ground of default of appearance of the Complainant. Hence, the objection taken by the Opponent No. 1 has no merit.

8. As stated earlier, the Opponent No. 1 did not provide the correct and complete information to the Complainant on point No. 2 inspite of the clear direction from the Commission and it is only when the Commission has passed an order dated 15th July, 2008, the Opponent No. 1 has provided the correct information to the Complainant. Had the Opponent No. 1 provided the same information to the Complainant at the beginning itself, all these complaints could have been avoided. The Complainant alleges that the Opponent No. 1 has deliberately delayed in providing this information in order to help the First Appellate Authority.

No explanation or justification has come from the Opponent No. 1 as to why the said information could not be provided to the Complainant earlier. The Opponent No. 1 being the Public Information Officer is responsible and bound to provide the correct and complete information as per the records available with the public authorities. The Opponent No. 1 has now informed the Complainant that 76 cases have been regularized under 20 point programme in Seraulim village. Therefore, this information was available with the public authority.

9. Therefore, there has been a long delay on the part of the Opponent No. 1 in providing the complete and correct information. However, this being the first case which has come to the notice of this Commission against the Opponent No. 1, the Commission takes a lenient view with a warning that the Opponent No. 1 should be careful in future to ensure that the correct and complete information is provided to the citizens within the specified time limit as laid down in the Act and not to cause any harassment to the citizens. If such instances come to the notice of the Commission in future, the Commission will view the same seriously.

10. With these observations, the present complaint is disposed off accordingly.

Pronounced in the open court on this 26th day of November, 2008

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

