

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 66/SCIC/2008

Shri Dinesh Vaghela,
Navagauri Apartments, IIInd Floor,
Opp. ICICI ATM, Alto, Porvorim – Goa.

..... Complainant

V/s.

1. Shri. S. T. Bhangui,
Superintendent Engineer – II(N) and
Public Information Officer,
Electricity Department,
Panaji - Goa.
2. The Chief Electrical Engineer &
First Appellate Authority,
Electricity Department, Vidhyut Bhavan,
Panaji - Goa.

..... Opponents.

Adv. Shri G. Mishra for the Complainant.

Adv. K. L. Bhagat for the Opponents.

J U D G M E N T

(Per Afonso Araujo)

This complaint deals with the failure on the part of the Public Information Officer to comply with the direction of this Commission in the order dated 31/12/2008 passed in Appeal No. 71/SCIC/2008. The direction ordered is that the information requested by the Complainant should be supplied by the Public Information Officer along all the documents on payment of fees within the 10 days from the date of the pronouncement of the order.

2. In the letter dated 5/1/2009, of S. T. Bhangui, Superintending Engineer – II(N), Panaji, addressed to this Commission and copy of letter sent to the Complainant, has stated that the Superintending Engineer, Circle – II (N), Electricity Department, Panaji, ceases to be the Public Information Officer as per order No. CEE/Estt-34/1/98/2734 dated 26/09/2008 and notified in Gazette Series II No. 28 dated 10/10/2008. In the letter it was also stated that this Commission should direct the Complainant to approach the concerned State Public Information Officer. The Complainant on 7/1/2009 approached the Public Information Officer,

...2/-

the Opponent No. 1 reminding of the order of the Commission dated 31/12/2008 and to provide the information. By letter dated 13/01/2009 it was communicated to the Complainant that the information could be collected on payment of fees. Subsequently, on 21/01/2009, the Superintending Engineer – II(N), Panaji addressed another communication to Complainant to collect the additional information received on payment of fees.

3. Not satisfied with the information provided, the Complainant approached the Commission on 28/01/2009. By order dated 12/02/2009 on the submission made by the Complainant stating that the information given by the Opponent No. 1 was partly to the second question and the first question was not even answered, issued a show cause notice to the Opponent No. 1 why penalty proceedings should not be started against him for deliberately not giving information and delay in giving part of information.

4. The Opponent No. 1 filed the reply. Heard Shri Mishra for the Complainant and Shri Bhagat for the Opponents. Written arguments were also submitted by Shri Mishra. I have gone through records of the case and the submissions of the parties.

5. The order of this Commission dated 31/12/2008 was that the Opponent No. 1 should provide the information alongwith documents within the period of 10 days. From the copy of the letter dated 5/1/2009 addressed to this Commission by the Opponent No. 1, the Complainant came to know that Shri Bhangui ceased to be Public Information Officer and was appointed as First Appellate Authority and by letter dated 12/01/2009 requested the Opponent No. 1 to comply with the Order of the Commission dated 31/12/2008 and provide the information sought. It may be pointed out that the Order of the Commission dated 31/12/2008 was challenged before the High Court by the third party Kashinath Shetye and the Hon'ble High Court by judgment dated 20th January, 2009 passed in Writ Petition No. 1 of 2009, dismissed the petition of the third party Kashinath Shetye and the Order of the Commission dated 31/12/2008 to provide information along with documents to the Complainant, was upheld.

6. Taking into consideration that the Order of the Commission dated 31/12/2008 was under challenge before the High Court right from 2/1/2009 to 20/1/2009 and during this period efforts were made by the Opponent No. 1 to provide the information sought by the Complainant, and though the Writ Petition was preferred by the third party Kashinath Shetye and not by the Opponents and the fact that the stay of the operation of the Order of the Commission was declined by Hon'ble High Court, it cannot be said that the Opponent No. 1 deliberately did not comply with Order of the Commission dated 31/12/2008 to provide the information sought.

7. However, the contention of the Complainant is that the information provided is incomplete and pointed out that the second part of the information sought, the Opponent No. 1 has not provided some of leave applications of Kashinath Shetye. The Opponent No. 1 has provided the list prepared by the Asst. Engineer, Sub-Divn. (Civil), Tivim, of the leave availed from September, 2006 to 18/04/2008. In this list, it is mentioned that Kashinath Shetye has applied for leave on 08/02/08, 12/03/08, 13/03/08, 14/03/08, 03/04/08 and 04/04/08 but the copy of the leave application has not been provided as requested. In matters of Right to Information Act, 2005 (for short the RTI Act) the primary concern is to provide information and penalties are to be looked into in cases of intentional or deliberate delay. As such the Opponent No. 1 is required to provide the copies of the leave application dated 08/02/08, 12/03/08, 13/03/08, 14/03/08, 03/04/08 and 04/04/08.

8. The Opponent No. 1 only after filing of Writ Petition in the High Court on 2/1/2009 by the third party, by letter dated 5/1/2009 brought out the fact that he ceased to be Public Information Officer and was appointed as First Appellate Authority and that too a change which took place as back as on 26/9/2008. It was a gross negligence on the part of the Opponent No. 1 not to inform the Commission about the change which had taken place from 26/9/2008 whereby the Opponent No. 1 ceased to be Public Information Officer and appointed as First Appellate Authority. Besides, there were seven hearings before this Commission, including the hearing when the Order dated 31/12/2008 was pronounced and the Opponent No. 1 has ample opportunity to inform the Commission

about the change. It is not understood the reason the Opponent No. 1 of not informing the Commission about the change taken place of the public authorities and the Opponent No. 1 continue to appear as Public Information Officer when he was already appointed as First Appellate Authority. Moreover, the conduct of the Opponent No. 1 addressing the letter dated 05/01/2009 to the Commission and requesting the Commission to direct the Complainant to approach the concerned Public Information Officer, is not proper. The Commission has passed order dated 31/12/2008 and an obligation was cast on the Opponent No. 1 to comply with the order and provide the Complainant with information sought. It is not for the Opponent No. 1 to direct the Commission to inform the Complainant about the change and the Complainant to approach the concerned Public Information Officer. This misconduct on the part of the Opponent No. 1 in not informing the Commission about the changes taken place from 26/9/2008 to the date a order of the Commission was passed on 31/12/2008, amounts to negligence and fit case to impose penalty.

9. Due to incomplete information provided and the conduct of the Opponent No. 1 in remaining silent on the fact that the Opponent No. 1 ceased to be Public Information Officer and appointed as First Appellate Authority, the Complainant was also put in inconvenience and the Opponent No. 1 to pay compensation for the harm caused to the Complainant. However, as no proper guidance was given to the Opponent No. 1, end of justice will be met by taking a lenient view. Hence, the following order: -

ORDER

The Opponent No. 1 to provide the copies of the leave applications dated 08/02/08, 12/03/08, 13/03/08, 14/03/08, 03/04/08 and 04/04/08 in the list prepared by the Asst. Engineer, Sub-Divn. (Civil), Tivim.

The penalty of Rs.2000/- is imposed on Shri S. T. Bhangui, Superintending Engineer – II(N), the then Public Information Officer. The penalty should be recovered from the salary of Shri S. T. Bhangui for the month of August, 2009 by the Director of Accounts, Panaji. A copy of this judgment and order be sent to the Director of Accounts, Panaji.

The compensation of Rs.1000/- is awarded to the Complainant and it should be paid to the Complainant by the office of the Chief Electrical Engineer, Electricity Department, Panaji - Goa.

Pronounced in the open court on this 30th day of June, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

