

**GOA STATE INFORMATION COMMISSION AT
PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 09/SCIC/2009

Shri R. G. Joshi
5, Suvihar Co-op. Housing Society Ltd.
Near Power House, Pontemol
Curcholem – Goa ... Complainant

V/s.

The Public Information Officer
The Director of Municipal Administration
Collectorate Building
Panaji – Goa ... Opponent

Dated: 15.07.2009

J U D G M E N T

(Per Afonso Araujo)

The delay in transferring the information to another public authority and providing incomplete information sought are the grievances in this complaint.

2. The Complainant on 15.01.2009 sought information from the Opponent at point 1) which is in respect of residential house in plot A of survey No. 161/1 at Bepquegal, Curcholem-Goa and consists of items (a) to (g). At point 2) which is in respect of residential house in plot 3 of survey No. 139/1 at ward II Pontemol, Curcholem-Goa and which consists of item (h) to (k). Since this information sought pertains to the Curcholem-Cacora Municipal Council the Opponent transferred this information to the concerned Municipality on 28.01.2009. The Chief Officer of Curcholem-Cacora Municipal Council by letter dated 05.03.2009 provided the information sought to the Complainant's letter dated 15.01.2009. Since there was a delay in providing the information the Complainant moved this Commission in a complaint under section 18 of the RTI Act.

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3. Shri Joshi submitted that the information which is sought on 15.01.2009 was transferred to the Chief Officer and received by him only on 28.01.2009 for which there was a delay and the reply given to the information is on 05.03.2009 and that the Chief Officer did not answer to the information at 1(a), (b), (d) and 2(h), (i) and (j). Smt. Morajkar submitted that the reply of the Opponent No. 1 may be considered as arguments.

4. I have gone through the records of the case and submissions of both the parties. The information which was sought by the Complainant on 15.01.2009, as it pertains to affairs of the Curchorem-Cacora Municipal Council, was transferred u/s. 6(3) of the RTI Act on 28.01.2009 to the Chief Officer of Curchorem-Cacora Municipal Council with a copy to the Complainant. The records indicate that the information sought by the Complainant was received in the Office on 21.01.2009 and processed by transferring this information to the Chief Officer of Curchorem-Cacora Municipal Council on the 5th working day i.e. on 28.01.2009, as there were intervening holidays and public holiday on 24.01.2009, 25.01.2009 and 26.01.2009 being Saturday, Sunday and public holiday being Republic Day holiday respectively. As per provisions of section 6(3) where the information sought is held by another public authority, the same has to be transferred to the public authority holding the information and this transfer has to be done as soon as practicable but in no case later than 5 days from the date of receipt of the application for information. Though the application for information of the Complainant is dated 15.01.2009 it was received by the Opponent No. 1 only on 21.01.2009 and it was transferred on 28.01.2009 as there were number of holidays in between. Taking into consideration between 21.01.2009 to 28.01.2009 there were number of holidays and the information was transferred only on 28.01.2009 the transfer by the Opponent No. 1 to the Chief Officer is within time and there is no question of any delay.

5. The contention of the Complainant is that the information provided by the Chief Officer in his letter dated 05.03.2009 is incomplete at 1(b) and (d) and at 2(h), (i) and (j) and this information is as follows:

1 (b) Is this G+1 residential house directly approved by CCMC?
Is this act lawful?

(d) Is the Occupancy Certificate (OC) issued to this G+1 residential house, lawful and correct, and in cognizance of the Building Bye Laws? Is the OC lawful and correct if Building Bye Law No. 13 is applied?

The reply to item 1(b) is that the G+1 residential house is directly approved by CCMC. Perhaps the Complainant considered this reply as incomplete as there is a further question at (b) which is 'Is this lawful?'. This question is not information within the meaning of section 2(f) of the RTI Act. The Complainant is seeking an opinion in respect of approval by the Municipality from the Chief Officer which is not permissible under the RTI Act. Similarly, in respect of question (d) the question whether Occupancy Certificate is lawful and correct in accordance by the Byelaws is an opinion. The Complainant did not request for Occupancy Certificate and from the reply given by the Chief Officer it appears that there is no need of Occupancy Certificate in respect of residential houses. Whatever be the case, the manner the question is asked about Occupancy Certificate indicates that the Complainant requires an opinion from the Chief Officer.

6. The information at point 2 is as follows:

2 (h) What is approved by the Town & Country Planning Dept.? A G+2 houses or is it G+1 house?

(i) Is the compound wall around plot 3, S. No. 139/1, Pontemol, Curchorem approved by CCMC? Is the c/wall approved by T & CP Dept. – Quepem?

(j) What is the area of the plot no. 3 (s. no. 139/1) as approved in the sub-div. Plan by the Town & Country Planning Dept.?

(k) What is the area of the plot no. 3(s. no. 139/1) actually occupied by the compound wall constructed by Shri. Raghunath Ghadi?

In the reply provided by the Chief Officer on 05.03.2009 it appears that there is some mixing of the replies to the items 2(i), (j) and (k). The item (i) refers to approval of the compound wall and (j) to the area of plot No 3. The reply at (i) is 'area of 372.00m²' and the reply to (j) is 'Not known'. In case the reply to item (i) is given in the item (j), then the Chief Officer has to give reply to item (i) of the letter dated 15.01.2009 which is approval of the compound wall by CCMC and clarify whether the reply at item (i) which shows '372.00m²' pertains to the information at (j) and also clarify whether the reply at (j) shown 'Not known' refers to the information sought at (k). With these observations, I pass the following order.

ORDER

The complaint is partly allowed. The Chief Officer of Curchorem-Cacora Municipal Council to provide the information at (i) and clarify whether the information given at 2(i) '372.00m²' and 2(j) 'Not known' pertains to the information sought at 2(j) and (k) respectively.

The Chief Officer of Curchorem-Cacora Municipal Council to provide the information to the Complainant by 31.07.2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

