

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 64/SIC/2008

Shri Alexinho Monserrate,
Santarbhat Piedade,
Divar, Ilhas – Goa.

..... Complainant.

V/s.

The Public Information Officer,
The Administrator, Central Zone,
Office of the Comunidades,
Panaji - Goa.

..... Opponent.

Complainant present in person.

Adv. M. H. Fernandes for the Opponent.

ORDER

While disposing the Appeal No. 56/SIC/2008, this Commission in the order dated 18/08/2008 made the following observations: -

“It is in the interest of the Comunidade of Navelim, the Respondent No. 1 shall give direction to the Comunidade of Navelim to find out the circumstances or basis on which the said plot of land has been recorded in the name of the private person and take appropriate steps in the matter.”

2. The Opponent by memorandum dated 8th September, 2008 directed the Clerk/Registrar of Comunidade of Navelim to submit detailed report. The Clerk of the Comunidade of Navelim on 10/11/2008 addressed a letter to the Opponent and referring to the memorandum dated 3rd November, 2008 stated that the reply to the memorandum dated 18/9/2008 should be taken into consideration and also stated that he cannot find out under what circumstances the plot of land was recorded in the name of the private person for non-availability of Tombo B Book, Tombacao, Planta and Agrimissor. The Clerk of Comunidade by referring to the order dated 18/8/2008 of this Commission on 18/11/2008 separately addressed a letter to the Secretary of Village Panchayat Navelim and asked the information pertaining to the property bearing Survey No. 189/7 of Village Navelim

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which bears Old Plan No. 16158, Plot No. 67/A and standing in the name of Lucinda Maria G. De Noronha de Menezes. As the Complainant has not received the report from the Comunidade of Navelim moved with the present Complaint with the prayers directing the Opponent to provide information as ordered in the judgment dated 18/8/2008; imposing penalty on the Opponent for not providing the information and compensate the Complainant for mental stress and agony.

3. Pursuant to the order dated 18/8/2008, the Opponent directed the Comunidade of Navelim to find out the circumstances or the basis on which the plot No. 64/4 and old Plan No. 16158 of Comunidade of Navelim has been recorded in the name of Lucinda Maria G. De Noronha de Menezes and submit detailed report. The Clerk/Registrar of Comunidade of Navelim instead of preparing a report merely informed the Opponent that no old records i.e. Tombo B Book, Tombacao, Planta and Agrimessor are available in the Archives of the Comunidade of Navelim. The direction given by order dated 18/8/2008 is specific and requires the Comunidade of Navelim to make a thorough search in all aspects and find out in what manner and what basis a land of the Comunidade has been parted to a private person. Unless a proper procedure is followed, no land of the Comunidade can be allotted to any person. Since the Appellant found that the land of the Comunidade has been shown in the name of the private person moved and sought the information under the Right to Information Act. The reply given by Comunidade of Navelim that old records are not available, by no stretch of imagination can answer the information sought. The Registrar of Comunidade of Navelim ought to have found out all the circumstances which led for the name of private person been shown in the land of the Comunidade. Incidentally, the Clerk of the Comunidade addressed a letter to the Secretary of Village Panchayat Navelim requiring him to furnish information pertaining to this property of Comunidade in question. There is nothing on record to show what was the reply given by the Secretary on this information sought. Similarly, the Clerk of the Comunidade ought to have sought information from other Departments specially the Land Registration Department and seek information in respect of record of rights

pertaining to property surveyed under No. 189/7. The Registrar of Comunidade of Navelim ought to have prepared report based on all the information sought from various public authorities and comply with the direction of order dated 18/8/2008.

4. The conduct of the Opponent in this regard is not at all satisfactory. No doubt that the Opponent complied with the direction of the order dated 18/8/2008 and directed the Comunidade of Navelim to submit detailed report but the Opponent instead of bringing to the notice of the Comunidade of Navelim of the failure to submit the detailed report, was content with the reply of Comunidade of Navelim stating that no old records are available. For the sake of repetition, there is a procedure to be followed for allotment of the land of the Comunidade to a private person and in case the land of the Comunidade is found in the name of any private person, there must be some documents indicating the manner and basis on which such land of Comunidade was allotted to such private person. To some extent there is responsibility of Opponent to see that the records of the Comunidade are maintained in proper order so that the procedure followed in allotment of land is done in accordance with law. Before dealing with the penalties, it will be proper that the Registrar of Comunidade give effect to the order of the Commission dated 18/08/2008 and prepare a report on the circumstances which led the land of Comunidade to be in the name of a private person.

5. Accordingly, the Opponent to give direction to the Clerk/Registrar of Comunidade of Navelim by working out possible aspects involved in this allotment of the land of Comunidade to a private person and submit a detailed report on the circumstances and basis on which the property bearing survey No. 189/7 of Village Navelim and which is plot No. 67/A under old plan No. 16158 of the Comunidade of Navelim, was recorded in the name of Lucinda Maria G. De Noronha de Menezes. The Opponent to report compliance on 7th October, 2009 at 10.30 a.m.

Pronounced in the open court on this 31st day of August, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

