

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 273/SIC/2008

Mr. Francis A. Soares,
1st Bairro, Santa Cruz,
Tiswadi – Goa.

..... Appellant.

V/s.

The Public Information Officer,
The Mamlatdar of Tiswadi,
Office of the Mamlatdar of Tiswadi,
Tiswadi Taluka, Panaji - Goa.

..... Respondent.

Shri C. S. Barreto, authorized representative for the Appellant.

Shri M. J. Araundekar, the Respondent.

J U D G M E N T

(Per Afonso Araujo)

The Appellant approached this Commission in Second Appeal without exhausting the remedy available to him by filing the First Appeal. However, as the Appellant is entitled to approach this Commission not only for providing the information but also requiring punitive action against the Public Information Officer, this Appeal is to be treated as a Complaint and the Appellant and the Respondent to be referred as the Complainant and Opponent respectively.

2. By producing a copy of Form I & XIV in respect of survey No.28/2 of Calapur village, the Complainant sought the information under the Right to Information Act, 2005 (for short the RTI Act) from the Opponent and requiring him to furnish the mutation number in respect of said survey. On 2/12/2008, the Opponent replied stating that entry made in survey No. 28/2 in Form I & XIV is original entry of Record of Rights and not mutated entry, as such furnishing of mutation No. under section 6 of RTI Act, 2005 does not arise.

3. The Complainant on 10/12/2008 by referring to letter dated 2/12/2008 of the Opponent requires the date when the plot bearing old

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number 423 (cadastral number) has been sub divided into plot Nos. 28/1 and 28/2 (new numbers) and also to submit copies of all the documents that have been submitted for the said sub-division. The Opponent on 31/12/2008 transferred this request to the Directorate of Settlement & Land Records and the Dy. Collector & S.D.O., Panaji. On 21/01/2009, the Dy. Collector & S.D.O. transferred back to the Opponent the information sought on 10/12/2008 and directed the Opponent to provide the information as the matter is with the office of the Opponent. The Complainant on 27/01/2009 approached this Commission with prayer that the Opponent be directed to furnish the information alongwith relevant copies of the documents; the Opponent be imposed fine for deliberately mis-informing the Complainant and disciplinary action be initiated against the Opponent for failing to give information when the same was available with the office of the Opponent.

4. Shri Barreto stated that the Complainant sought information on 01/12/2008 as to how mutation was done in respect of survey No. 28/2 and that subsequently on 21/01/2009 Dy. Collector has transferred this request as the records are available with the Opponent when the Dy. Collector himself has to provide the information on mutation. Shri Araundekar stated that in matters of mutation it is the Dy. Collector who deals with the mutation cases and based on the order of Dy. Collector & SDO mutation is carried by the Opponent and all the documents required for the mutation are with the authority passing order and that the Complainant is not seeking information on mutation but the original entry made at the time of general survey and that the information was provided by the Public Information Officer of Directorate of Settlement and Land Records.

5. I have gone through the records of the case and submissions of the parties. The information sought is in respect of property survey No. 28/1 and 28/2 of Calapur village of Tiswadi Taluka. This property is having old cadastral number 423 and the Complainant requires to know the date when this plot was divided and also the documents which were produced to carry this sub-division. The Opponent initially on 2/12/2008 replied stating that the entry made in survey No. 28 sub-division 2 of

village Calapur is original entry of Record of Rights and not mutated entry. Thereafter, by request dated 10/12/2008 the Complainant again required the date and documents which led the sub-division of plot of the old survey number in new survey Nos. 28/1 and 28/2. The Opponent transferred this application under section 6(3) of the RTI Act to the Directorate of Settlement and Land Records and also to the Dy. Collector and SDO, Panaji. It is strange that the Dy. Collector transferred back to the Opponent the same information stating that the all relevant records pertaining to the mutation concerning the changes in the Form I & XIV are available in the office of the Opponent. For all purposes any changes to be made in this Form I & XIV are to be carried by producing all relevant documents before the Dy. Collector and any order passed by the Dy. Collector, the mutation has to be carried by the Mamlatdar. The office of the Mamlatdar based on the order of the Dy. Collector carries out the mutation in the Form I & XIV of a particular village. The documents required in a mutation case will be available in the office of the Dy. Collector rather than office of the Mamlatdar and it is not proper on the part of the Dy. Collector to transfer information sought to the Mamlatdar, Opponent.

6. Upon receipt of the transfer from the Opponent on 31/12/2008 of the request dated 10/12/2008 of the Complainant, the Public Information Officer – Superintendent of Survey & Settlement Officer by letter dated 28/01/2009 addressed to the Complainant replied to the information sought and stated that new sub-division Nos. 28/1 and 28/2 of the village Calapur was surveyed during general survey operation conducted in the year 1971 to 1974 after following the procedure laid down under the provisions of the Goa Daman & Diu Land Revenue Code 1968 and the Rules made there under. The Complainant conveniently did not refer to the reply dated 28/01/2009 and insisted only on the transfer of the information sought to the Dy. Collector. From the reply provided by the Opponent in the letter dated 2/12/2008 as well as the letter dated 28/01/2009 of Supdt. of Survey & Settlement Officer dated 28/01/2009, it appears that this sub-divisions 28/1 and 28/2 was done at the time of general survey carried in the year 1971 and 1974 and not as a result of any mutation case finalized by the Dy. Collector and as

such the information provided by the Public Information Officer – Supdt. of Survey & Settlement Officer, met the requirements sought in the request of the Complainant dated 10/12/2008 and accordingly the information sought was provided to the Complainant.

7. Now the question which arises is in respect of imposing penalties and recommending disciplinary proceedings and which, are required to be dealt in this Complaint. The information sought on 01/12/2008 was provided on 02/12/2008 by the Opponent. The repeated information sought on 10/12/2008, was transferred on 31/12/2008 to the Directorate of Settlement and Land Records and the Dy. Collector & S.D.O., Panaji. On 21/01/2009, the Dy. Collector transferred back the same information sought to the Opponent. The Public Information Officer of Directorate of Settlement and Land Records on 28/01/2009 provided the information sought to the Complainant, within the prescribed period envisaged under section 6(1) of the RTI Act. Considering the reply given by the Opponent dated 02/12/2008 stating that the entry in survey No. 28/2 in Form I & XIV is original entry in Record of Rights and not mutated entry, it corroborates with the reply of the Public Information Officer - Supdt. of Survey and Settlement Officer dated 28/01/2009 that sub-divisions 28/1 and 28/2 was done when the general survey took place in 1971 and 1974, there is no delay in providing information and the question of deliberately mis-informing the Complainant does not arise neither on the part of the Opponent nor Public Information Officer – Supdt. of Survey and Settlement Officer. There are no grounds for imposing penalties and recommending disciplinary proceedings. With these observations, the Complaint is disposed off.

Pronounced in the open court on this 2nd day of September, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

