

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Complaint No. 53/SCIC/2009

Mr. Oscar Mascarenhas,
H. No. 12, Sarvado Navelim,
Salcete – Goa.

..... Complainant.

V/s.

The Chief Officer,
Margao Municipal Council,
Margao – Goa.

..... Opponent.

Complainant alongwith Adv. B. Rodrigues present.

Adv. R. M. Lotlikar for Opponent.

ORDER **(25-02-2010)**

1. The Complainant, Shri Oscar Mascarenhas, has preferred this Complaint praying that the Opponent be directed to furnish the proper and accurate information as stated in the application dated 08/07/2009 addressed to the Chief Officer of the Margao Municipal Council.

2. The brief facts leading to the present Complaint are as under: -

That the Complainant moved an application dated 8th July, 2009 under the Right to Information Act ('RTI' Act for short) requesting information from the Chief Officer of the Margao Municipal Council/Opponent. That the Opponent failed and refrained from providing the required information nor communicated the reply to the Complainant within the time frame of 30 days. It is the case of the Complainant that the Opponent failed to provide the information within 30 days nor cared to reply and that he wrongly refused the information under RTI Act. Hence, the present Complaint.

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3. The Opponent resists the Complaint and the say of the Opponent is on record. It is the case of the Opponent that the Complaint is misconceived and not maintainable in law. That this Commission has no jurisdiction to entertain and try the Complaint and pass any Order thereon. On merits it is the case of the Opponent that as information sought for by the Complainant pertained to the staff and the administration of the Opponent, the Opponent was of the opinion that they might have to seek legal advice on the point whether such information could be provided for under the said Act. That after discussions and deliberations among the officials and taking requisite advice, the Opponent was of the opinion that only part of the information sought by Complainant could be furnished to him. It is further the case of the Opponent that information was ready for being furnished to the Complainant but as he did not turn up to collect the information the same was posted to him by Registered Post with A/D. That from the postal endorsement on the packet, it is evident that the Complainant did not accept the packet and the packet has been returned back to the Opponent. Opponent prays that application be dismissed.

4. Heard the arguments. The learned Adv. Shri B. Rodrigues argued on behalf of Complainant and the learned Adv. Shri R. M. Lotlikar argued on behalf of Opponent.

According to the Advocate for the Complainant, information given is later i.e. only after notice of Commission. That the application was filed on 8/7/2009 and Complaint was filed on 25/08/2009. According to him, there is delay and Opponent ought to be levied with penalty. He also referred to

section 20 and 22 of RTI Act. He also relied on some of the rulings of Central Information Commission, the Xerox copies of which are on record. He also referred to the information at point No. 2.

5. Advocate for Opponent also admits that there is some delay but the same is not due to any malafide intention or that they did not want to give. According to him in view of the information sought they wanted to have some opinion. He next submitted that information was sent by post but the Complainant refused to accept. According to him no malafides are there but on genuine grounds there is some delay which ought to be condoned. He also referred to the prayers in the Complaint.

6. I have carefully gone through the records of the case, considered the arguments advanced by the Advocates of the parties and also considered the rulings on which Advocate for the Complainant placed reliance. The points that arise for my consideration are whether the information sought was furnished to the Complainant and whether there was any delay in furnishing the information?

At the outset I must say that the Right to Information Act, 2005 has been enacted to provide for a legal right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority. Information, more than any other element is of critical importance in a participatory democracy. From the scheme of the Act it is clear that RTI Act ensures maximum disclosures and minimum exemptions, consistent with constitutional provisions prescribing at the same time confidentiality of sensitive information. Section 6 of the RTI Act postulates that a person who desires to obtain any information under the

Act shall make a request in writing or through electronic means to the authorities specifying the particulars of the information sought by him. Under section 7(1) Central Public Information Officer or State Public Information Officer as the case may be shall provide the information within 30 days of the receipt of request on the payment of such fees as may be prescribed or reject the request on any grounds specified under section 8 and 9 of the Act.

7. It is seen, from the records, that information is given. Information is sought on 08/07/2009. It is seen that information was sent by Registered A/D Post on 25/08/2009. It is also seen from postal endorsement that the same was not claimed. The same was given subsequently. Admittedly there is a delay and the delay is apparently of 16 to 17 days considering the Registered A/D letter. That there is delay is not disputed by Advocate for the Opponent.

8. Now it is to be seen whether the same is with malafide intention or deliberate to withhold the information?

According to Advocate for the Opponent since the information sought for by the Complainant pertained to the staff and administration of Opponent, the Opponent was of the opinion that they might seek legal advice as to whether such information could be provided under RTI Act. After deliberations and taking requisite advice they decided to furnish part of the information.

According to the Advocate for Complainant the provisions of RTI Act are clear and there is no question of delay. He relied on (i) Dr. Manoj Singhania V/s. University of Delhi, Delhi [No.CIC/OK/A/2006/00637 dated

04/07/2008] and (ii) Ms. Suja Rose John V/s. NCERT [Appeal No. CIC/OK/A/2007/00961 dated 23/06/2009]. In both these cases it is observed that provisions of RTI Act are so clear that a single reading is sufficient to understand it and the information can be denied only if the requested information falls under the provisions of section 8 and 9 and that there is no need of legal opinion. Advocate for Complainant also relied on some other rulings regarding delay and imposition of penalty.

It is to be noted here that RTI Act, in general is a time bound programme between the administration and the citizen requesting information and every step will have to be completed within the time schedule prescribed for presentation of First Appeal and disposal by the Appellate Authority.

9. I do agree with the contention of the Adv. Shri Lotlikar that there is no malafide intention etc. It is seen that information was sent. It is seen that the same is given to Complainant. There is no reason to disbelieve the ground mentioned in the reply regarding legal opinion. Yet the fact remains that no serious effort was made to respond to the request. There is also some inaction on the part of the officials of Margao Municipal Council. This again is violative of the spirit of section 7(1) of the RTI Act. RTI Act is a people friendly Act. In any case this Commission would caution all concerned to be alert and vigilant in deciding with requests/appeals as received from citizens under RTI Act in future.

Since information is given and in view of the above, this Commission is taking a lenient view and exonerating the Public Information Officer from the penalty as contemplated under section 20 of the RTI Act, 2005 for the delay that had occurred in the matter.

10. The Commission finds that the matter can be closed with the hope that the Public Information Officer henceforth is expected to strictly adhere to the time table prescribed by the provisions of the RTI Act. With these observations, the Complaint is disposed off.

The Complaint is accordingly disposed off.

Pronounced in the Commission, on this 25th day of February, 2010.

Sd/-
(M. S. Keny)
State Chief Information Commissioner

