

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No. 15/SCIC/2009

Shri Vishwas M. Phadte,
Madkai Adan Tonk,
P.O. Mardol, Goa – 403 404.

..... Complainant.

V/s.

Public Information Officer,
Mr. B. Parchuru,
Principal,
S. S. Samitis H. S. School,
Kavale, Ponda – Goa.

..... Opponent.

Complainant in person.

Adv. Shri A. V. Nigalye for Opponent present.

ORDER **(22-03-2010)**

1. The Complainant Shri Vishwas M. Phadte, has approached this Commission praying that maximum fine of Rs.25,000/- (Rupees Twenty Five thousand) be imposed with disciplinary action against Principal/Public Information Officer.

2. The facts leading to the present Complaint can be summarized as under: -

- (i) The Complainant made an application dated 2/5/2009 to the Public Information Officer/Principal S. S. Samitis H. S. School, Kavalem, Ponda – Goa, seeking some information i.e. to furnish copies of Evidences/witness statements of four persons as mentioned in the said application.
- (ii) That the information asked was to be given within 48 hrs. However, the same was refused, that is, the P.I.O./Principal after reading the same refused to accept the same.

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(iii) That the Chairman of the School Managing Committee S.S. Samiti's H. S. S., Kavalem, Ponda – Goa issued Memorandum dated 30/4/2009 to the Complainant levelling totally false charges; that Complainant also was made to work for 15 hrs. per day including Sundays and holidays.

3. The Opponent resist the Complaint and their reply is on record. It is the case of the Opponent that the Complaint is not maintainable in law and on facts and liable to be dismissed; that Complaint is filed without any cause of action and that the Complainant has no ground or reason to file the present Complaint. The Opponent denies that Memorandum issued contains false charges etc. It is the case of the Opponent that no application was filed by the Complainant on 2/5/2009 under section 6(1) and 7(1) of the Right to Information Act to furnish information within 48 hrs. The Opponent also denies that the Opponent refused to receive the said Application after reading it. In short it is the case of the Opponent that no application was submitted by the Complainant and the question of refusing it does not arise. It is further the case of the Opponent that all communications including the applications are received in the school office by the Clerk of the school and they are inwards in the Inward Register; that no such application is inwards in the said register. That no application was submitted to the Clerk of the Higher Secondary School or send the same by Registered post to the Opponent. That Opponent is not the Public Information Officer or the Asst. Public Information Officer of the Education Department. The Opponent also refers to the earlier Application presented by the Complainant, her advise to him etc. The Opponent also refers to the working hours, about memorandum etc. in her reply. According to Opponent the Complaint is malafide and is filed with ulterior motives.

4. The Complainant, thereafter, filed an Affidavit alongwith certain documents in support of his case and the same is on record.
5. The Opponent also filed her affidavit alongwith certain documents which are on record.
6. Heard both sides. The Complainant also filed written submissions which are on record.
7. I have carefully gone through the records of the case, considered the arguments advanced and also perused various documents produced by both sides. Considering the peculiar facts of this case the question that arises for consideration is whether there was actual submission of a request for information?

At the outset I must say that right to know is a basic right of citizens of a free country. Long back, Aristotle observed that people desire to know. Without adequate information a person cannot form an informed opinion. 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. As per the scheme of the Act an errant Public Information Officer will be liable to a fine of Rs.250/- per day for not accepting an application.

Now it is to be seen whether the Complainant has submitted the application as contended by him. It is the case of the Complainant that he submitted the application. He has filed his affidavit and also some documents including the cuttings of the newspaper. As against this the Opponent's case is that no application was submitted and the present

application is to harass the Opponent on account of some inquiry. The Opponent has also filed an affidavit as well as some documents including inward register.

8. The documents of the Complainant are as under: -

Exhibit 1 is the affidavit. In this affidavit Complainant affirms that his application was not received. Exhibit 2 is the letter in connection with the appointment of State Public Information Officer and Asst. Public Information Officer Exhibit 3 and 4 are from the Department of Information and in connection with Public Information Officer and Asst. Public Information Officer. Exhibit 5A is a letter dated 23/3/2007 from Anil V. Powar, Dy. Director of Education (Plg.) to Principal Shree Shantadurga Shikshan Samiti Higher Secondary School, stating that information sought by the Complainant is confidential and cannot be furnished. Exhibit 5 B is a letter dated 27th June, 2008 from Principal to the Complainant. This letter is a reply to the queries asked by the Complainant under RTI Act. Exhibit 5 C letter dated 17th July, 2008 from the Principal to the Complainant. This letter is also in connection with R.T.I. Application and information was enclosed as per the same. Exhibit 5 D is letter dated 18/8/2008 from the Principal to the Complainant. Again this is also in connection with R.T.I. Application. Exhibit 5 E is the letter/Memo issued to the Complainant signed by the Principal. The same is dated 24/10/2006 and the contents refer to RTI application. Exhibit 5 F is letter dated 25/10/2008 from the Principal to the Complainant and same is in connection with R.T.I. application and information is furnished. Exhibit 5 – G is the letter dated 01/12/2008 and Exhibit 5 H is letter dated 18/2/2009. Both are from Principal and both in connection with R.T.I. Application.

...5/-

Exhibit 6-A is the letter dated 5/7/2007 from the Complainant to the Public Information Officer/Principal in connection with non-issuing of receipt. Exhibit 6-B 30/7/2007 is the letter/Memo addressed to the Complainant from the Principal stating that the Complainant has not paid the amount and instructing him to refrain from such false accusations. Exhibit 6 C is letter dated 29/8/2007 from the Complainant to the Principal in reply to the said Memo/letter dated 30/7/2007. Exhibit 7 A is letter dated 10/12/2008 from the Complainant to the Director of Education, Panaji. The said letter is regarding non-receipt of his Complaint/Representation/Letter by Clerk of the said School. Letter dated 22/12/2008 from Dy. Director of Education to the Principal asking to offer comments on the said letter. Exhibit 8 A, 8 B and 8 C are cuttings of Marathi Newspapers 'Lokmat', 'Goa Doot' and 'Gomantak'. These cuttings are in relation to filing the Complaint before the Commission. The newspapers are of June, 2009.

From the above documents, it appears that most of the letters are received and information asked has been furnished. It is also seen that there was an issue of Rs.10/- as can be seen from the above mentioned letter. According to the Complainant amount has been paid and according to the Opponent i.e. from the Letter/Memo it is a false accusation. However, this issue is not material to the Complaint before this Commission.

9. Now the Opponents alongwith the affidavit has produced the following documents:- (1) Exhibit O-1 colly are three letters from the Complainant dated 5/7/2007, 10/12/2008 and 29/9/2009 addressed to the Principal, Director of Education and Chairman of School Managing

Committee. The Complainant has also referred to the same as mentioned above. One is about non-issuing of receipt, the other about not receiving of complaint etc. and the third reply to the Memo. Exhibit O-1A is the Inward Register showing various entries including the letters received from the Complainant. The letter in question finds no place in the said register. Exhibit O – 2 colly is the letter dated 21/10/2006 from the Complainant received on 23/10/2006. The same is regarding casual leave. Letter/Memo dated 26/10/2006 is from Principal to the Complainant. Letter dated 28/10/2006 is from the Complainant to the Principal. The same was received on 30/10/2006. Exhibit O-3 (colly) is the letter 25-7 from Hema S to the Principal about not receiving Rs.10/- from the Complainant towards the information sought; letter dated 30/7/2007 is the letter/Memo. This is also produced by the Complainant. Letter dated 29/8/2007 from the Complainant to the Principal. This is also produced by the Complainant. Exhibit O-4 is the letter dated 20/1/2009 from the Principal to the Dy. Director of Education (Plg), Panaji – Goa. This is in connection with the letter of Dy. Director. Letter of Dy. Director is also produced by the Complainant.

10. The Complainant has also filed Affidavit-in-reply which is on record. He also produced copies of rules as well as copies of Gazette showing Amendment of rule 3 and also a letter dated 6/10/2009 from Shri Anil V. Powar, Dy. Director of Education (Plg.) to the Complainant. This letter is also in connection with information.

11. It is seen from the correspondence on record that the bone of contention between the parties appears to be the notice issued to the Complainant by the Committee/School Authorities. However, this

Commission is not at all concerned with the same. According to the Complainant he has given the application and according to the Opponent no application is given. Both have stated so on affidavit. The Complainant has not brought the fact of refusal to the notice of higher authorities immediately. Even Newspaper cuttings are of since 2009 after the Complaint is filed before the Commission. Complainant contends that inward register is of no use as there is no column about refusal. However, the inward register mentions the name of the Complainant and reply etc. given by him figure in the same. But this letter does not find mention in the said register.

12. I have mentioned this inward register only to show that earlier letters given by the Complainant have been duly recorded in the register. Again Exhibit O-2 (colly) letter dated 21st October, 2006 is from Complainant to the Principal. The same is received by one H. Verenkar on 23/10/2006. Letter on record dated 28/10/2006 is reply to the Memo from Complainant to the Principal. This letter/reply is also received by H. Verenkar as can be seen from endorsement. Letter dated 29/8/2007, reply to Memo dated 30/7/2007 from Complainant to Principal. This is also taken by H. Verenkar as per endorsement on the same.

It is pertinent to note here that Exhibit 2 produced by Complainant is also an application under RTI dated 19/7/2006 addressed to Information Officer, Dy. Director of Education sent through Principal. The same was received by H. Verenkar. It appears that all correspondence i.e. letters, replies etc. are received by some one and not by Principal. In his Complaint in para 2 the Complainant states that information was refused by abovenamed Public Information Officer by refusing to receive his application for information after reading it. As pointed above, it is seen

that most of the applications, replies etc. have been received by some other who acknowledged the same with dated signature. But in the instant case it is not so.

I have also perused Exhibit 5 A to 5 H produced by the Complainant alongwith written submission, Affidavit and other documents. It is seen that on earlier occasions his requests have been duly replied. Except the statement of the Complainant there is nothing on record to show that such a request was made.

It is to be noted here that Opponent on their part also filed affidavit denying the allegation. According to them no application was presented at all. No doubt parties are at loggerheads and disputes are between them. Both have filed affidavits and produced documents.

Looking at the entire material on record and considering the rival contentions I am of the opinion that benefit is to be given to the Opponent when they contend that no application was given.

13. This Commission has a dual function to perform. The main important is to see that information is provided, as the purpose behind RTI Act is to provide information. No person/officer can refuse to accept application for information. Such refusal is punishable. Therefore, there should be some cogent and credible evidence on this aspect. In the case before me there is no cogent evidence to show that application was presented.

The other function is to see that the Act is not misused to settle personal scores.

14. In any case, ends of justice and object of R.T.I. Act would meet if Opponent is directed to furnish the information sought by the Complainant in his letter dated 2/5/2009. Adv. Shri Nigalaye states during argument that the letter dated 2/5/2009 has been given alongwith Complaint and they would act on the same.

15. In view of the above, the Complaint is premature and is hereby dismissed.

The Opponent is directed to deal with the application of the Complainant dated 2/5/2009 and dispose the same within 15 days from the receipt of the Order.

Pronounced in the Commission on this 22nd day of March, 2010.

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

