

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Complaint No. 70/2009

Shri Vivek N. Amonkar,
H. No. 366, Betal Prasad,
Near Marutigad, Curchorem – Goa. Complainant.

V/s.

State Public Information Officer,
Executive Engineer, Buildings,
WD I, Public Works Department,
Panaji - Goa. Opponent/Respondent.

Complainant in person.

Adv. N. Dias for Opponent.

ORDER **(26-04-2010)**

1. This is a Complaint filed by the Complainant, Vivek N. Amonkar, praying for a direction to provide the information sought free of charge as per section 7(6) of RTI Act since State Public Information Officer failed to comply; for penalty and disciplinary action.

2. The gist of the Complainant's case is as under: -

That the Complainant by his application dated 27/6/2009 requested for certain information under the Right to Information Act ('RTI' Act for short). That the said Application was sent by Registered A/D Post on 27/6/2009 which was received by State Public Information Officer on 29/6/2009. That the Complainant has not received any letter/intimation from State Public Information Officer. Since the information was not received from the Opponent within the time prescribed under RTI Act, the Complainant filed the present Complaint.

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3. The Opponent resist the Application and the reply is on record. It is the case of the Opponent that the request of the Complainant seeking information vide his letter dated 18/6/2009 was directed vide letter dated 21/7/2009 to deposit necessary fees towards the documents asked thereby. However, the Complainant vide letter dated 24/7/2009 asked for the correct amount to be paid and intimated that he desires to pay the amount by D.D. That in the meanwhile the Complainant received both the copies on 25/8/2009. That though the Complainant signed for one he received both the copies by paying towards only one copy of information sought and avoided payment towards the 2nd copy at the counter of the cashier. That, therefore, the Opponent is not negligent or failed in his duty in providing the required information sought. It is further the case of the Opponent that the Complainant has come before this Commission directly without going to the First Appellate Authority which is the right forum to get his grievance solved if at all not satisfied with the information furnished is not to his satisfaction that on this count alone this Appeal deserves to be dismissed. It is also the case of the Opponent that all the information sought had been kept ready and furnished to the Complainant vide letter dated 6/8/2009, however, the Complainant never turned up. That the Opponent furnished all the information sought by the Complainant whatsoever available in his office. According to the Opponent the Complaint is liable to be dismissed.

4. Heard the arguments. The Complainant argued in person and also submitted written arguments. The learned Adv. Shri N. Dias argued on behalf of the Opponent. Both sides advanced elaborate arguments. Complainant submitted that Application dated 18/6/2009 is completed and information has been furnished. He has no dispute about the same.

According to him application is dated 27/6/2009 and the same was received on 29/6/2009 and Public Information Officer/Opponent has not replied the same. That the Complainant did not send any letter in connection with the application dated 27/6/2009 and that he did not receive any copy. He next submitted that he paid only for one application dated 18/6/2009 and that he received the letter from the Public Information Officer only on 7/10/2009. He also referred to para (3) of the reply. He next submitted that Complaint is maintainable and relief prayed be granted.

5. During the course of his arguments, Adv. N. Dias referred to the application dated 18/6/2009 and letter dated 21/7/2009 asking to deposit the necessary fees. That no charges were deposited but Complainant wrote a letter to give correct amount so that he can pay by D.D. He next submitted that applicant came received one copy of documents by paying the amount on 15/8/2009 and thereafter filed the Complaint in the Commission. Advocate for the Opponent submitted that Complainant/Applicant never came to collect the copy and that whatever he wanted he was provided. Advocate for Opponent next submitted that when he said that he did not receive they provided him with another copy. Advocate for Opponent produced copies of register. He also submitted that Appellant is the partner of the said firm and asking information from the Opponent.

6. In reply the Complainant submitted that he made correspondence in respect of application dated 18/6/2009 and regarding application dated 29/6/2009 he did not make any correspondence?

7. I have carefully gone through the records of the case and also considered the written and oral arguments advanced by the parties. The point that arises for my consideration is whether the Complainant is entitled for the relief prayed?

At the outset I must say that right to know is a basic right of citizens of a free country. 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. The citizens and information seekers have, subject to few exemptions an overriding right to be given information on matters in possession of the State and Public Agencies that are covered by the Act.

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

8. Coming to the instant case the Applicant filed an application dated 27/6/2009 seeking certain information regarding M/s. Datt Damodar. It is seen from records that the Application was sent by Registered Post A/D and Opponent received the same on 29/6/2009. There is a letter dated 6/8/2009 produced on record as per the same it is mentioned about fees and reference is to the application dated 27/6/2009. There is also reference to the letter dated 24/7/2009 of the Complainant.

It is interesting to note that the Complainant/applicant had made an application dated 18/6/2009. According to the Complainant regarding the same information is furnished and he has no grievance. In my view the said chapter is closed. However, it is to be noted that letter dated 21/7/2009 is in connection with Application dated 18/6/2009. Letter of the Complainant dated 24/7/2009 is also in connection with the Application dated 18/6/2009 which is already over.

It is not known whether there was any letter made by the Complainant on 24/7/2009 in respect of application dated 27/6/2009. There is another letter dated 7/10/2009 from Opponent to the Complainant in which there is mention of letter dated 24/7/2009 and fee is regarding the application dated 27/6/2009.

The Respondent's case is they have furnished the information in respect of application dated 18/6/2009 and 27/6/2009 together. The Complainant received both but signed only one copy. According to the Complainant this is not true.

9. According to the Complainant he has not received the information whereas according to Opponent they have furnished the information. Even the copy of information furnished is not produced. I have perused the copy of the Register produced by the Opponent at No. 203 and 204 dated 6/8/2009 the names of Complainant figure in connection with RTI and at No. 331 dated 07/10/2009, the name of Complainant figures and the same in connection with RTI. There is something missing somewhere and some sort of confusion is sought to be created. Any way in my view some inquiry is required to be done.

This Commission wanted some clarifications from both sides and in view of this Order which was posted on 8/3/2009 was adjourned. However, Complainant did not remain present to co-operate with the Commission. Matter was adjourned to 8/3/2009, then to 19/3/2009 and 5/4/2009. On 5/4/2009 Complainant remained present but was late. He was informed of the next date and specifically was told to remain present but today also he is not present and hence it is decided to dispose the matter. However, necessary inquiry would be conducted.

10. Now it is to be seen whether there is any delay in furnishing the information.

The copy of the information furnished is not on record. However, in reply the Opponent states that the Complainant received both the copies of information on 25/8/2009. Apparently there is delay in furnishing the information. However, the Public Information Officer should be given an opportunity to explain about the same fully in the factual backdrop of this. It is open to Public Information Officer to establish that Complainant has received information and that he did not sign nor pay. Right now the information be given free of charge however the same would be determined on the outcome of the inquiry as mentioned above.

11. In view of the above, the Opponent has to furnish the information to the Complainant. Since there is delay the Opponent is to be heard on the same. Hence, the Order: -

“Opponent is directed to furnish the information to the Complainant as per his application dated 27/6/2009 free of cost as per section 7(6) of RTI Act within 15 days from the receipt of the Order.

Issue notice under section 20(1) of the RTI Act to the Opponent/Public Information Officer why penalty action should not be taken against him for causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 3/6/2010.

Hearing/inquiry posted on 03/06/2010 at 10.30 a.m.

The Complaint is accordingly disposed off.

Pronounced in the Commission on this 26th day of April, 2010.

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

