

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Complaint No. 94/2009

Adv. Mrs. Sandra D'souza,
Noronha Heritage Building, 1st Floor,
Dongorwaddo, Fatorda,
Margao - Goa

... Complainant.

V/s.

Public Information Officer,
Superintendent of Police,
South Goa,
Margao - Goa

... Opponent.

Complainant in person.
P.I. Santosh Dessai on behalf of Opponent.
Adv. Harsha Naik for the Opponent.

ORDER
(06.05.2010)

1. The Complainant, Ms. Sandra D'Souza, has filed this Complaint as her request for seeking information under Right to Information Act, 2005 has not been answered.
2. It is the case of the Complainant that by an application dated 08.10.2009 the Complainant sought certain information under Right to Information Act ('RTI Act' for short). However no reply was given and hence the Complainant preferred the present Complaint.
3. The Opponent resist the Complaint and their say is on record. It is the case of the Opponent that information was furnished upon the petitioner on 17.11.2009 through Margao Town Police. That the Complainant was called to collect the information from the office of the Respondent/Opponent vide letter dated 26.10.2009 but the same was received by the Complainant only on 17.11.2009. It is also the case of the Opponent that Constable Shri Hiralal Gaude tried to serve the said letter immediately to the Complainant but the Complainant was not available at the given address, i.e. at Noronha Heritage Building, Dongorwaddo, Fatorda, Margao-Goa as the flat of the

Complainant was found locked. That on several occasions the said Police Constable tried to serve the Complainant but the flat was found locked. That Complainant being lady, it was not proper and advisable to serve her during night hours. That only on 17.11.2009 the concerned Police Constable managed to serve the letter dated 26.10.2009 on the Complainant at 9:00 a.m. That the delay in furnishing the information was not deliberate and intentional. It is further the case of the Opponent that the Complainant filed a false complaint so as to mislead the Commission. The Opponent also denies that the information furnished is false and misleading. In short, it is the case of Opponent that complete information is furnished to the Complainant.

4. Heard the arguments. The Complainant argued in person and the Learned Adv. Smt. H. Naik argued on behalf of the Opponent. Both sides advanced elaborate arguments.

The Complainant referred to the application for information and submitted that till 08.11.2009 no reply was given and on 16.11.2009 Complaint was filed before the Commission. The Complainant referred to delay and attached the affidavit filed. According to Complainant, letter could be sent by post or Registered A/D. According to her detail inquiry is to be made. She next submitted that the information given is misleading and incomplete.

5. Adv. H. Naik for Opponent submitted that frame of the Complaint is not proper and there is no prayer and as such Complaint is liable to be dismissed. According to her there is no intentional delay and information is not misleading. According to her it has not been shown how information is misleading or incomplete.

6. In reply Complainant submitted that her complaint is not with the Margao Police Station but with Public Information Officer and affidavit should have come from the S.P's office. According to her S.P. has to give justification.

7. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration whether information is furnished and is there is any delay and secondly whether the information is incomplete, incorrect or misleading?

It is seen that application seeking information was made on 08.10.2009. However till 15.11.2009 no information was received. So complaint was filed on 16.11.2009. It appears that subsequently on 17.11.2009 the information was received by the Complainant. According to the Complainant there is delay. However, according to the Opponent the Complainant was not available and as such she could not be served. Apparently there is delay; however, Public Information Officer should be given an opportunity to explain that the same was not intentional, malafide, etc. in the factual backdrop of this case.

8. The Complainant contends that the information is incomplete, incorrect and/or misleading. This is disputed by the Advocate for the Opponent. According to her, information furnished is correct.

It is to be noted that purpose of RTI Act is per se to furnish information. Of course Appellant has a right to establish that information furnished to him is false, incorrect, misleading, etc. but the Complainant has to prove it by some sort of documentary evidence to counter Opponent's claim. The information seeker must feel that he/she got the true and correct information otherwise purpose of RTI Act would be defeated. It is pertinent to note that mandate of RTI Act is to provide information – information correct to the core and it is for the Complainant to establish that what she received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that Complainant must be given an opportunity to substantiate that the information given to her is incomplete, incorrect, misleading, etc. as provided in section 18(1) (e) of the RTI Act.

9. In view of the above, the Opponent is to be heard on the aspect of delay, etc. The Complainant should be given an

opportunity to prove that the information is incomplete, incorrect, misleading, etc. Hence I pass the following Order:

Information is furnished so no intervention is required on this aspect.

Issue notice under section 20(1) of RTI Act to the Opponent/Public Information Officer why penalty actions should not be taken against him for causing delay for furnishing information. The explanation if any should reach the Commission on or before 25.06.2010. Public Information Officer/Opponent may appear for hearing.

The Complainant to prove that information furnished is false, incorrect, misleading, etc.

Further inquiry posted on 25.06.2010.

Complaint is accordingly disposed off.

Pronounced in the Commission on this 6th day of May, 2010.

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

GSIC/Complaint No.94/2009
Goa State Information Commission
Shrama Shakti Bhavan, Gr. Floor,
Patto Plaza, Panaji-Goa

07.05.2010

To

1) Adv. Mrs. Sandra D'souza,
Noronha Heritage Building, 1st Floor,
Dongorwaddo, Fatorda,
Margao - Goa

2) Public Information Officer,
Superintendent of Police,
South Goa,
Margao - Goa

Sub: Complaint No. 94/2009.

Sir,

I am directed to forward herewith copy of the Order dated 6th May, 2010 passed by the Commission in the above referred Complaint for information and necessary action at your end.

Yours faithfully,

(Meena H. Naik Goltekar)
Under Secretary-cum-Registrar

Encl: As above.