

GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Complaint No. 02/2008

Shri. Joao C. Pereira,
H. No. 40, Acsona, Utorda,
Majorda, Salcete – Goa.

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Complainant.

V/s.

The Public Information Officer,
Superintendent of Police (South),
Town Police Station,
Margao – Goa

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Opponent.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per A. Venkataratnam)

Dated: 16/07/2008.

Complainant in person.

Shri. N. Raposo, P. I. Verna Police Station represented the Opponent.

ORDER

We have passed an order on 14/11/2007 in second Appeal No. 34/2007 filed by the Complainant to provide the information requested by the Complainant earlier within a period of 15 days from the date of the pronouncement of the order. The time given expired on 30/11/2007. Neither the information was given to the Complainant nor any reason was given to him within the time allowed. The Public Information Officer did not approach this Commission nor show his inability to comply with the order and reasons for the same. Meanwhile, the Complainant approached the Public Information Officer a number of times when he was informed that the Opponent was intending to file a Writ Petition against the order of this Commission. However, as no such Writ Petition was filed even after 150 days of the passing of the order by the Commission, the present complaint was filed by the Complainant on 15/04/2008 for the execution of our own order.

2. A show cause notice was issued to the Opponent why action should not be taken against him as prayed for by the Complainant for non-execution of the order of this Commission. On the day fixed for hearing i.e. on 10/06/2008, an authority letter was produced by Shri. N. G. Raposo, Police Inspector of Verna Police Station "appointing him as the nodal officer" by the Public Information Officer and the Opponent herein, "to attend all hearings before Goa State Information Commission, file say whenever

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required on behalf of the Public Information Officer". We find that this is a strange authority letter as there is no such provision in the Right to Information Act, 2005 (for short the RTI Act) to appoint anybody as "nodal officer" on behalf of the Public Information Officer. Further, in response to the show cause notice dated 25/04/2008, neither the Public Information Officer has appeared in person before this Commission nor did he reply to the show cause notice. On 9/07/2008, however, a reply dated 07/07/2008 was filed to the show cause notice stating that he moved a note sheet to S.P. (HQ) to appoint a Government Counsel before the Hon'ble High Court, for challenging the order of this "authority". No Writ Petition was filed. No explanation was given for the delay in filing Writ Petition which is to the extent of more than 7 months after passing our order. Finally, the Opponent informed that the information requested by the Complainant was given on 3/07/2008. As to the prayer of the Complainant to impose penalty and start disciplinary action against the Opponent for delay in giving the information, no reply was filed by the Opponent.

3. The matter came for final hearing on 9/7/2008, the Complainant has agreed that the information was given to him but insisted on his prayer of taking action against the Opponent for starting a penalty proceedings. As mentioned above, the Public Information Officer conduct is not bonafide. He neither filed any reply for delaying the information for more than 7 months nor mentioning the steps taken by him to challenge the order of the Commission and seeking time from the Commission suo moto nor he has attended the hearing and showed cause why penalty proceedings should not be started against him. We have also noted the concept of the "nodal officer" is alien to the provisions of the RTI Act. Looking at all these points and the prayer of the Complainant for taking action against the Opponent, we deem it proper that a compensation of Rs.2000/- be paid by the public authority namely, the Police Department to the Complainant for the detriment and inconveniences caused to the Complainant. The Police Department on their part is free to recover the amount from the Public Information Officer/Opponent for the above lapse. We are, however, not inclined to start the penalty proceedings in this case. Nonetheless, the Commission will not hesitate to take stern action against the Opponent if such instances come to the notice of the Commission in future.

Announced in the open court, on this 16th day of July, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

Sd/-
(G. G. Kambli)
State Information Commissioner

