

GOA INFORMATION COMMISSION

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

Complaint No: 08 / 08-09 /

Shri Kashinath Shetye,
Bambino Building, Alto Fondvem,
Ribandar, Tiswadi - Goa.

..... Complainant

V/s

1. The Public Information Officer,
The Vice Principal / Sr. Most Lecturer,
V. M. Salgaonkar College of Law,
Miramar, Panaji - Goa.

..... Opponent

CORAM:

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

(Per G.G. Kambli)

Dated: 16/07/2008.

The Complainant in person.

Opponent in person.

O R D E R

By two separate applications both dated 08/04/2008, the Complainant sought information from the Opponent under the Right to Information Act, 2005(for short the Act). The first application comprises of 3 points and the 2nd application consists of only 1 point on which the Complainant sought the information. The Opponent by his letter dated 15/04/2008 requested the Complainant to produce the proof of his residence and photo identity to ensure, that the information is sought by a genuine citizen of India and on receipt of the same the request would be processed.

2. Feeling aggrieved by this Communication of the Opponent (hereinafter referred to as the impugned letter), the Complainant has filed the present Complaint under section 18 of the Act. On issuing the notices, the Complainant appeared in person. The Opponent also remained present and filed his reply. The Opponent contended that what he meant by the impugned letter is to ensure the identity of the Complainant. He also submitted that he has already instructed the staff to keep the instruction ready and that he is ready and willing to provide the same to the

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Complainant on production of identity and on payment of the fees. Hence, the Opponent was directed to file the compliance report to the Commission on 02/07/2008 at 11.00 a.m. In the reply filed by the Opponent, the Opponent has clearly made the following categorical statement:-

“ In fact Opponent is ready and willing to supply information if the Complainant approaches the Respondent with his identity”.

3. On 02/07/2008 the Complainant remained present and the Opponent remained absent and no Compliance report was filed by the Opponent. The Complainant made the grievances that the Opponent has not provided the complete information to the Opponent as he has been directed to approach the Goa University to obtain certain information. Hence, the Complainant was directed to file on 08/07/2008 a written statement along with the copy of the reply provided by the Opponent to the Complainant. On 08/07/2008 the Complainant remained present and filed the reply alongwith the copy of the letter dated 23/06/2008 of the Opponent.

4. On perusal of the reply dated 23/06/2008 of the Opponent, the Opponent has informed the Complainant to collect the information during normal office hours on point No.1. It is not clear whether the Complainant has collected this information regarding the point No. 1. Regarding the point No. 2 and 3, the Opponent informed the Complainant that the information is available in Goa University. However, the Opponent stated that the same can be made available on payment of photocopy charges of Rs. 1/- for exposure or the same can be inspected without any charges during normal working hour with minimum 24 hrs prior information to the Opponent. The reply of the Opponent is self contradictory, the Opponent says that the information is available with the Goa University and on the other hand, he says that the same can be made available on payment of photo coping charges of Rs. 1/- or the Complainant can inspect the same without payment of any charges with prior 24 hours notices. This clearly shows that the information is available with the Opponent. In case, the information was not available with the Opponent and the same was available only with the Goa University, the Opponent ought to have transferred that part of the application of the Complainant to the Goa University within 5 days from the date of its receipt in terms of the provisions of section 6 (3). Hence, the Opponent has

not complied with the provisions of section 6 (3) of the Act.

5. The Opponent in his reply dated 23/06/2008 has stated that the Complainant can inspect the records with prior notice of 24 hrs without payment of any charges. In his context, it is to be noted that the Complainant did not seek any inspection of the records of the Opponent and therefore, the Opponent cannot force the citizen to inspect the records when such request is not made. Further the Public Information Officer is not authorized to allow the citizen to carry out the inspection free of charge. In fact, the fees payable towards the inspection of records is laid down in clause (d) of sub-rule (2) of Rule 3 of the Goa Right to Information Act (Regulation of Fee and Cost) Rules 2006.

6. The Opponent has also informed the Complainant that the Opponent can make available the information sought at points No. 2 & 3 on payment of Rs. 1/- as photo copying charges. Here again the attention of the Opponent is invited to sub-rule (2) of rule 3 of the aforesaid rule where the charges towards the supply of information have been specified. The Opponent cannot fix his own charges of Rs. 1/- for photo copying. The Opponent has to collect the fees/charges as laid down in the aforesaid rules. He has no discretion to either reduce the fee or to increase it.

7. It will be seen from the above discussion, that the Opponent in spite of the undertaking given before the Commission has not yet provided the information to the Complainant. This act on the part of the Opponent appears to be deliberate and not bonafide. Having made the categorical written and oral submission before this Commission, the Opponent cannot now ask the Complainant to approach the Goa University. If the information was not available with the Opponent, the Opponent should have transferred that part of application to the Goa University within 5 days from the date of its receipt. From the reply given to the Opponent, it is crystal clear that the information is available with the Opponent on the Opponent has shown his willingness to provide the information on payment of photocopying fee of Rs. 1/- or allow the Complainant to inspect the documents with prior notice, without payment of any charges and the Opponent is trying to withhold its

disclosures on one pretext or the other. Therefore, we feel that the Opponent has not acted diligently and with the spirit of the Act. Hence, there is a prima-facie case against the Opponent to proceed under section 20 of the Act.

8. Incidentally, the Complainant has filed the common Complaint in respect of his 2 separate requests made to the Opponent. In fact, each request gives a separate cause of action and as such a separate complaint/appeal is rejoined to be filed in respect of each request.

9. In the circumstance, the following order is passed.

O R D E R

The Opponent is directed to provide the remaining information to the Complainant within one week from the date of this order and submit the compliance report on 23/07/2008 at 11.00 a.m. The Opponent is also directed to show cause as to why the penalty of Rs. 250/- per day delay should not be imposed on him in terms of the provisions of section 20 of the Act, an 23/07/2008 at 11.00 a.m.

Pronounced in the open Court on this 16th day of July 2008.

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

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

