

GOA INFORMATION COMMISSION

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

Complaint / 11 / SIC / 2008 /

Mr. Franky Monteiro,
Hno: 501, Devote,
Loutolim, Slacete - Goa.

..... Complainant

V/s

The Public Information Officer,
Shri Sanjeev C. G. Dessai,
The Deputy Collector (Revenue),
South Goa, South Collectorate Building,
Margao - Goa.

..... Respondent

CORAM:

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 15th July, 2008.

Complainant in person.

Mrs Harsha Naik , Government Counsel for the Opponent.

O R D E R

The short point that arises for my determination is whether the Opponent has complied with the order dated 15/04/2008 passed by this Commission in Appeal No. 123/2007-08/Dy.Col. The Commission had directed the Opponent who is the Public Information Officer to provide the information to the Complainant within 5 days as requested by the Complainant. The Complainant by his request dated 13/09/2007 has sought the information from the Opponent on 4 points. So far as the point No. 1 is concerned the Complainant submitted that the Opponent has provided the correct information. The present Complaint concern with the information on points No. 2, 3 and 4. The Opponent filed the reply and also the so called affidavit. However I have ignored the said affidavit as the same is not Sworn before the Competent Authority. The Opponent in his reply raised the preliminary objection stating that the present case is pre-mature and hence infructuous as the Opponent has complied with the order in toto.

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2. Though the Opponent has raised the preliminary Objection, the learned Government Counsel Mrs. Harsha Naik has not substantiated this preliminary Objection in what way the present Complaint is pre-matured and infructuous . The Complainant has come with the grievances of non-compliance of the orders of the Commission. Hence I overrule the Preliminary objection raised by learned Government Counsel.

3. Coming now to the merit of the case, the Appellant has sought the following information on point No. 2

“Whether illegal occupants in 20 point project in Seraulim Village have been regularized or are in the process of being regularized”.

“In response the Opponent has sent a copy of the letter No. 16/1/99/RDF-6336/PF dated 18/01/2007. The Complainant submits that the Complainant was already having the copy of the said letter and this was also considered by the Commission in its order. The Complainant states that he did not ask for the copy of the said letter”.

Mrs Harsha Naik the learned Government Counsel for the Opponent contended that the citizen cannot seek any information in the form of query like why, what, where and whether. In support of her contention she has relied upon the decision of the CIC in case of Ms. S. Lilawathi V/s Jipmer, Pondicherry, and Dr. D. V. Rao V/s Department of legal affairs.(CIC decisions) and of the High Court of Bombay in writ petition No. 419/2007 (Director of Education V/s Public Information Officer).

4. We have made it clear in several cases that the decision of the Central Information Commission are not binding on this Commission. Coming now to the decision of the Hon’ble High Court of Bombay in writ Petition No. 419/2007 (Dr. Celso Pinto V/s Goa State Information Commission and other), the Hon High Court as held as follows: -

“ The definition cannot include within its fold answers to the question “why” which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not

done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information”.

5. A clearfull perusal of the above decision of the Hon High Court of Bombay it is clear that a citizen cannot seek the information in the form of questions like “why” and seek the reasons for a particular thing. The Opponent in his reply has made the following statement.

“Even otherwise as per the decision in Writ Petition No. 419/2007, of Honble High Court Goa bench in the case of Director of Education V/s PIO, it is clearly held that queries such as “WHY,WHAT, WHERE AND WHETHER” DOES COME UNDER THE PURVIEW OF Right to information Act”. In fact, the Hon’ble High Court of Bombay has held that information cannot be sought in the form A query WHY.

6. Mrs. Harsha Naik has strongly contended that as per the said decision of Hon’ble High Court a citizen cannot seek information in the form of queries like what, when and whether. It is not understood as to where from the words “what, when and whether” have been brought by the learned Government Counsel when the same do not reflect in the order of the Hon’ble High Court that the citizen cannot ask the reasons in the form of queries like what, when and whether. Thus, the Opponent as well as the learned Advocate Government Counsel has tried to mislead this Commission.

7. It is pertinent to note that the Complainant has sought the information at point No. 2 as to whether illegal occupants in 20 point project in Seraulim Village have been regularized or are in the process of being regularized. The Complainant has not sought for any reasons from the Opponent nor he has questioned the authority as to why the illegal occupants have been regularized or not regularized. The Complainant has sought the factual information as to whether the illegal occupants in 20 point project has been regularized or not. Thus the decision of the Honble High Court (supra) is not applicable to the point No. 2 as the Complainant has not sought the information in the form of the queries like why and also did not seek any reasons.

8. The Opponent has provided a copy of the letter dated 18/01/2007, which was already on record of the commission in the Appeal No. 123/2007-08 and also in possession of the Complainant. During the course of the hearing the Complainant submitted that by virtue of the said letter dated 18/01/2007 of the Government, the Collector (South Goa) was directed not to disturb the possession of the illegal occupants and allot the plot to them once the grant of original allottees is cancelled. Therefore the Complainant submitted what he meant by point No. 2 is that whether this Government decision has been implemented by the Collector. He has not sought the reasons as to why it was not implemented. Therefore, the point No. 2 on which the Complainant has sought the information will not cover by the decision of Hon'ble High Court and therefore the Opponent has to provide the Information on point No. 2.

9. Regarding, the point No. 3, the learned Government Counsel submitted that the purpose for which the land was handed over to the Goa State Industrial Development Corporation has already been specified in the point No. 3 itself. The Complainant himself has stated that GIDC handed over the land in Verna and Loutolim village for housing project for workers in the said village and therefore there is no need to specify the purpose. A copy of the handing over of possession of land Goa Industrial Development Corporation was also provided to the Complainant.

10. Coming now to the point No. 4 the learned Government Counsel submitted that the Complainant has sought the information in general and not of a particular site. She submitted that the plots under 20 point programme are developed by various authorities like Block Development Officer etc. Since, the Complainant did not specifically pointed out in respect of which site the Complainant wanted information, the Opponent has correctly furnished the information stating that the authority, to whom the plots are handed over, develop the same. As regard, the 2nd part of the point No. 4, the Complainant is seeking the advise of the Opponent which is not permissible under the Act. Being so I feel that the Opponent has provided the information on point No. 3 and 4.

11. As stated earlier, the Opponent has not provided the information to the Complainant on point No. 2 and tried to mislead this Commission. Therefore, I hold that opponent has not provided the correct and complete information on point No. 2 inspite of the direction of the Commission in its order dated 15/04/2008.

In view of the above, the following order is passed.

O R D E R

The Opponent is directed to provide the information on point No. 2 of the application dated 13/09/2007 of the Complainant within a week time from the date of this order and file compliance report to this Commission on 25/07/2008 at 11.00 a.m.

Pronounced in the open Court on this 15th day of July, 2008.

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