

GOA INFORMATION COMMISSION

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

Complaint No. 17/SIC/2008

Dr. J. Victor De Souza,
Anne Villa, Povoacao, Moira,
Bardez – Goa. 403 501.

..... Complainant.

V/s.

Public Information Officer,
Mr. S. S. Naik,
Block Development Officer,
Office of the Block Development Officer,
Mapusa, Bardez – Goa.

..... Opponent.

CORAM:

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 27/08/2008.

Complainant in person.

Opponent also in person.

ORDER

The Complainant herein vide application dated 23/11/2007 sought the following information from the Opponent under the Right to Information Act, 2005 (for short the Act): -

1. Certified copy of the reply to the letter No. 04/Civic/07 dated 21/05/2007 by the Joint Convenor, Moira Civic and Consumer Forum to the Block Development Officer received in the office of the Block Development Officer on 28/05/2008.
2. Certified copy of the reply to letter No. 19/10/DP/Misc/GS/07/2177 dated 23/07/2007 to the Block Development Officer from Dy. Director of Panchayats, North.
3. If no reply has been sent, reasons for not doing so.

2. The Opponent sent a reply dated 13/12/2007 informing the Complainant that the information is ready. However, according to the Complainant, the Opponent did not provide the information as per the request and therefore, the Complainant filed an appeal before the first Appellate Authority on 14/01/2008. The first Appellate Authority disposed off the appeal by an order dated 25/05/2008 giving direction to the Opponent to furnish the information on all the

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3 points within 4 days. Pursuant to the said order of the Appellate Authority, the Opponent vide his letter dated 2/06/2008 informed the Complainant that the letter dated 21/05/2007 of the Joint Convenor, Moira Civic and Consumer Forum addressed to the Block Development Officer has been forwarded to the Village Panchayat Secretary of Moira vide memorandum dated 10th March, 2008 with a direction to take necessary action and as no report was received a reminder has been issued to the Village Panchayat Secretary dated 2/06/2008. The Opponent also stated in the said reply that the report on the said letter dated 21/05/2007 has been received from the Village Panchayat Secretary Moira dated 19/3/2008 and subsequent report dated 2/06/2008. As regards the point No. 2, the Opponent informed that the copy of the reply dated 30/5/2008 was sent to the Complainant. Regarding point No. 3, the Opponent informed that no reason can be quoted under the Act.

3. As the Complainant did not receive the complete and correct information from the Opponent, the Complainant has filed the present complaint before this Commission on 14/07/2008. Upon issuing the notices, the Opponent filed his reply. The Complainant has also filed his written submissions. The arguments were also heard from both the parties.

4. It is to be noted that the Complainant at point No. 1 has sought a certified copy of the reply given by the Opponent to the letter dated 21/5/2007 of the Joint Convenor, Moira Civic and Consumer Forum. As can be seen from the reply dated 2/6/2008, the Opponent did not act on the said letter till 10/3/2008 and it is only on 10/3/2008, the Opponent has forwarded the said letter to the Village Panchayat Secretary of Moira for taking necessary action. The application seeking information was moved on 23/11/2007. Thus, on the date of application the Opponent did not take any decision or sent any reply to the Joint Convenor of Moira Civic and Consumer Forum. Therefore, Opponent could have very well given the reply to the Complainant on factual position.

5. Coming now to the second point wherein the Complainant had sought the certified copy of the reply given to the memorandum dated 23/07/2007 of the Dy. Director of Panchayats, on perusal of the said memorandum, it is seen that the letter dated 18/7/2007 received from the Volunteers Moira Civic and Consumer Forum alongwith its enclosures was forwarded to the Opponent with a direction to take necessary action in the matter. In fact, the Opponent was not

directed to send any reply to the Dy. Director of Panchayats. From reply given by the Opponent, it is seen that the Opponent has forwarded a report received from the Village Panchayat Secretary Moira to the Dy. Director of Panchayats, North vide letter dated 30/8/2007. In fact, the Opponent was directed to take action on the complaints of Volunteers Moira Civic and Consumer Forum. A copy of the same appears to have been sent to the said Forum.

6. The Complainant contended that the Complainant sought certified copy of the reply given by the Opponent in response to the letter dated 21/5/2007 and not the copies of the report of the Village Panchayat Moira. Similarly, he submitted that he sought a certified copy of the reply given to the memorandum dated 23/07/2007 of the Dy. Director of Panchayats, North. The Opponent could have very well informed the Complainant that he has not sent any reply to the letter dated 21/5/2007 of the Joint Convenor of Civic and Consumer Forum. Similarly, in respect to the point No. 2, the Opponent could have provided a copy of the report submitted by him to the Dy. Director of Panchayats, North. The Complainant drew my attention to the para 9 of the reply of the Opponent wherein the Opponent has stated that the office of the Block Development Officer, Bardez has no legal obligation to reply to each and every communication addressed by Moira Civic and Consumer Forum. According to the Opponent, there is no provision in the Goa Panchayati Raj Act, 1994 to that effect. The Complainant further submitted that the Block Development Officer is a public servant and he is bound to give a reply to the citizens. I fully agree with the Complainant that every public servant is accountable to the public i.e. citizens and this is one of the objectives of the Act. The Act not only provides for transparency but also fixes accountability on the public authority and its functionaries. Being so, the Opponent cannot say that he has no legal obligation to reply to each and every communications of the citizens.

7. Regarding the point No. 3, I do not see any wrong in the reply given by the Opponent. The Hon'ble High Court of Bombay in the Writ Petition No.419/2007 (Dr. Celsa Pinto Vs. Milan G. Natekar and another) has held that the Public Information Officer is not required to provide reasons under the Act. The Complainant submitted that as per the provisions of section 4(1)(d) of the Act, the Public Information Officer has to give reasons for administrative or quasi-judicial decisions. The Complainant also that the Opponent has provided the information only on 2/6/2008 that too after the order from the first Appellate

Authority. The same information could have very well provided to the Complainant much earlier and within the time limit provided in the Act. The Opponent submitted that the delay has been caused due to heavy workload in the office.

8. This reason is not at all convincing as the application under the RTI Act has to be dealt with on priority basis as the information or the reply has to be provided within the statutory mandatory period. There is no provision in the Act for extending this period laid down in section 7 and therefore, the Public Information Officer is bound to adhere to the time limit specified in the Act. The information sought by the Complainant was also very simple which could have been provided without any difficulties. The information sought by the Complainant was neither old nor voluminous where such records were required to be traced. The representation dated 21/05/2007 of the Joint Convenor, Moira Civic and Consumer Forum and the memorandum dated 23/07/2007 of the Dy. Director of Panchayats, North was sent during the tenure of the Opponent and therefore, the Opponent was well aware as to whether the reply has been sent or not. Admittedly, the Opponent has not provided the information to the Complainant within the time limit and forced the Complainant to approach the first Appellate Authority. The Opponent has not acted diligently.

9. Turning now to the provisions of section 4(1)(d) of the Act, the said provisions cast obligation on the Public Authority to provide reasons for its administrative or quasi-judicial decisions to the affected person. Thus, the reasons are to be given by the Public Authority and that too for the affected person and not to the citizens.

10. In this case, though the Opponent has not acted diligently, I take the lenient view and warn the Opponent to be more careful in future while dealing with the applications under the Act and to ensure that the applications are disposed off within the statutory period laid down in the Act. If such recurrences come to the notice of this Commission, the same will be viewed seriously. As the information has already been provided though belatedly, complaint stands disposed off with the above observations.

Announced in the open court, on this 27th day of August, 2008.

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

