

GOA INFORMATION COMMISSION
Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Complaint No. 24/2007-08/US(PER-II)

Shri Gajanan D. Phadte,
898, Nila Niwas, Alto Torda,
P. O. Porvorim - Goa.

..... Complainant.

V/s.

The Public Information Officer,
The Under Secretary (Personnel - II),
Secretariat, Porvorim - Goa.

..... Opponent.

CORAM:

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

(Per G. G. Kambli)

Dated: 04/10/2007.

Appellant in person.

Opponent also in person.

JUDGEMENT

This will dispose off the complaint filed by the Complainant against the Opponent. The facts of the case in brief are that the Complainant vide his application dated 18/4/2007 sought certain information from the Opponent pertaining to the permissions/intimations issued to Dr. M. Modassir, IAS for acquiring or for disposal of the immovable property in his name and any other persons name. The Under Secretary (Personnel - I) vide letter dated 26/5/2007 requested the Complainant to collect the information on payment of the prescribed fees of Rs.10/-. The Complainant says that he has paid the said fees, but the information was not provided. However, subsequently, the Complainant received a letter dated 28/5/2007 from the Under Secretary (Personnel - I) forwarding therewith a copy of the letter dated 24/4/2007 alongwith its enclosures of Dr. M. Modassir wherein Dr. M. Modassir objected for the supply of the said information as the disclosure of the said information would amount to unwarranted invasion of his privacy. Dr. M. Modassir relied upon the decision of the Central Information Commission dated 22nd February, 2006 in Appeal No.02/IC(A)/CIC/2006.

...2/-

2. Feeling aggrieved by the said letter of the Under Secretary (Personnel - I), the Complainant preferred an appeal before the first Appellate Authority. During the course of the proceedings before the first Appellate Authority, the Opponent agreed to provide the information sought by the Complainant and therefore, the Complainant did not press for other relief's and accordingly, the appeal was disposed off.

3. The Complainant approached this Commission by way of this present complaint alleging that the Opponent did not provide the information as undertook before the first Appellate Authority and therefore, the Complainant prayed that the Opponent be directed to provide the complete information and the Opponent be directed to refund the fees of Rs.38/- as the information was not provided within the time limit. The Complainant also prayed for imposition of penalty.

4. The Opponent filed his reply dated 27/8/2007 and further reply on 4/9/2007. The Opponent in his reply has stated that the Complainant was allowed to inspect the relevant files of Dr. M. Modassir and on inspection, the Complainant made the application dated 18/4/2007 seeking certain information. The Opponent submits that whatever information available with the Opponent has been provided to the Complainant and the Complainant is seeking information which is not available with the Opponent. In the reply dated 4/9/2007, the Opponent has made very clear that except four files mentioned therein nothing else is available in the personal files belonging Dr. M. Modassir. The Complainant filed his written submissions.

5. We have gone through the complaint, replies filed by the Opponent as well as the written arguments of the Complainant. It is not clear from the application dated 18/4/2007 as to whether the Complainant has paid an application fee of Rs.10/- at the time of submitting his application. In fact as per Rule 3 of Goa Right to Information (Regulation of Fee and Cost) Rules, 2006 as amended, an application seeking information should accompany fess of Rs.10/- in the form of Demand Draft/Banker's Cheque/Cash/Court fee. In the absence of any evidence, it is to be construed that the Under Secretary (Personnel - II) might have asked the Complainant to pay an application fee of Rs.10/- by his letter dated 28/5/2007. The further grievances of the Complainant is that he has

been provided with information comprising of 13 pages alongwith the letter on payment of Rs.28/-. The cost of 13 pages comes to Rs.26/-. The Complainant is claiming for the refund of the fees paid by him to the Opponent, as the information was not supplied to him within the time limit of 30 days. The Complainant has not sought the information under Section 7(5) of the Act and therefore, the Complainant is not entitled to get the information free of cost. This view has been held by this Commission in number of cases. However, in the present case, the Complainant has been provided with the information containing 13 pages and therefore, the Complainant is entitled to refund of Rs.2/-.

6. So far as the other grievances of the Complainant that the complete information has not been provided, the Opponent has made it very clear that whatever information is available in the relevant files have been supplied to the Complainant. The Complainant has also inspected the files and it is not the case of the Complainant that the information sought by the Complainant is available in the file and the Opponent is deliberately withholding its disclosure. Since the information is not available in the relevant files, we cannot give any directions to the Opponent to provide information which is not available with the Opponent. In view of the above, we pass the following order: -

ORDER

7. The complaint is partly allowed. The Opponent is directed to refund Rs.2/- to the Complainant. The other prayer of the Complainant for the imposition of the penalty is rejected as the Opponent has shown reasonable cause for the delay.

Announced in the open court on this 4th day of October, 2007.

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

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

/sf.