

GOA INFORMATION COMMISSION

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

Complaint No. 25/2007-08/Police

Shri J. J. Barreto,
C/o J.J. Trading Corporation,
Near Railway Overbridge,
Margao - Goa.

..... Complainant.

V/s.

Public Information Officer,
Shri. S. M. Prabhudessai,
The Superintendent of Police (South),
Margao – Goa.

..... Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated: 29/11/2007.

Complainant in person.

Mr. Santosh Desai, authorized representative of the Opponent.

Adv. K. L. Bhagat for the Opponent on record.

ORDER

The Complainant requested for certain information on 8/3/2007 through an application made under Right to Information Act, 2005 (RTI Act for short) to the Opponent herein who is the Public Information Officer. The request is to inform him "the reasons why Police Inspector Margao Town Police Station failed to initiate timely action on the above complaint dated 05/02/2007". The Public Information Officer replied on 27th March, 2007 that "According to SDPO, Margao, since the matter is civil in nature, you have been directed to approach the proper court of law". To another request by the Complainant, regarding the inaction of Police Inspector of Margao, the Public Information Officer stated that the allegations are "turned down by the Police Inspector Margao Town Police Station to be false and baseless". In an appeal filed to the first Appellate Authority, an order was passed by the later on 25/5/2007 instructing the Public Information Officer "to issue instructions to

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Police Inspector Margao Town Police Station to re-examine the case and requested information/clarification may be furnished to the Appellant as sought vide their application dated 8/3/2007". It is the contention of the Complainant that this order of the first Appellate Authority have not been executed by the Public Information Officer. He has, therefore, prayed through this complaint that the Public Information Officer be ordered to comply with the order of the first Appellate Authority dated 25/5/2007. He has also requested for compensation to himself and recommendation of disciplinary action against the Public Information Officer and the Police Inspector Shri Santosh Desai.

2. Notices were issued. Initially, Mr. Santosh Desai, Police Inspector of Margao Town Police Station was authorized on 25/08/2007 by the Superintendent of Police, South Goa, who is the Public Information Officer, to represent the latter in all the hearing in respect of "notices" filed by Shri J. J. Barreto. The complaint is considered as "notices" by the Public Information Officer and the authorization was sent to the Commission by the Opponent by post. On the date of hearing, the said Police Inspector appeared before the Commission. Later, he has also submitted an affidavit in reply which was not sworn in before any authority. Subsequently, the same affidavit was submitted by properly swearing in before a public notary. In between, a memo of appearance was filed by Adv. Bhagat who neither submitted any written arguments nor argued the matter.

3. The Complainant in his arguments has submitted that he has not yet received a reply to his original request dated 8/3/2007 and the first Appellate Authority's order dated 25/5/2007 was not implemented by the Public Information Officer. He has also taken objections to the affidavit being sworn in by the Police Inspector Margao Town Police Station against whom he has filed initially his complaint of inaction before the Public Information Officer and who is not a party in the case.

4. We have observed that the cause title of the complaint filed before us is changed by the Police Inspector Margao Town Police Station, Shri Desai while filing the affidavit in reply as if the Police Inspector of Margao is the Opponent. The complaint is against the Public Information Officer and the affidavit is filed in the case against the Public Information Officer "through Police Inspector, Margao Police Station, Margao, Goa". Shri Desai has also

further submitted at para 3 of the affidavit that he is himself the Public Information Officer and that the first Appellate Authority has not fixed up any time limit for “re-examining the matter as per his order dated 25/5/2007”. It is very clear, therefore, that the facility given by this Commission to the Opponent who is the Public Information Officer to either appear in person or through his authorized representative has been abused to mean that the Police Inspector who is neither the Public Information Officer nor the Asst. Public Information Officer could not only file the written statement but also claim himself to be the Public Information Officer without any authority under the RTI Act. This is highly objectionable and we ignore the affidavit filed by the unauthorized person. This also shows how the Police Department takes the appeals under the RTI Act, casually. As to the complaint proper, we hereby direct the Public Information Officer to execute the order of the Dy. Inspector General of Police and first Appellate Authority dated 25/5/2007 and submit a compliance report by way of an affidavit on 12/12/2007. He should also appear in person alongwith the affidavit on 12/12/2007 in person. No authorized person on his behalf is allowed to plead his case.

Announced in the open court on this 29th day of November, 2007.

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

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

/sf.