

GOA INFORMATION COMMISSION

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

Complaint No. 27/2007-08/Police

Lt. Col. (Retd) Paul B. Fernandes,
"Aerie", 468 Aquem Baixo,
Margao - Goa.

..... Complainant.

V/s.

The Public Information Officer,
The Superintendent of Police,
Town Police Station, South,
Margao – Goa.

..... Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated: 10/01/2008.

Complainant present.

Adv. Harsha Naik for the Opponent.

ORDER

This is against the non-execution of the order dated 10/7/2007 of the first Appellate Authority directing the Respondent No. 1, Public Information Officer, to "furnish all information if available and if the information is not available then the Public Information Officer may inform the same to the Appellant furnishing the reasons". After the receipt of the first Appellate Authority's order there was no further correspondence made by the Public Information Officer to comply with this order.

2. Notices were issued and the Public Information Officer was represented by Adv. Harsha Naik. The Complainant was absent. However, the matter proceeded further in terms of Rule 7(2) of the Goa State Information Commission (Appeal Procedure) Rules, 2006.

3. The history of this case is that a complaint was made by an Association called "Goan Association of Landowners and Agriculturists" (GALA) against one Mr. Silvano Rebello who was the Secretary of that Society at the time of

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complaint alleging misappropriation of cash received from the members of the Society and theft of the records of the Society. The complaint was lodged with the Margao Town Police Station on 23/11/2003. It is not known whether any FIR was registered by the Town Police. However, it has come on record that Mr. Rebello was called to the Police Station and some “inquiry” was conducted. It appears that Mr. Rebello denied all the allegations and then the Police have summoned the Chairman of the Society (the original Complainant) to answer further and confront with the statement of Mr. Rebello. It is the case of the Police that GALA has not further cooperated with the Police. The Complainant herein, approached the Margao Police a few times and not satisfied with the progress of the investigation, he has moved the present request, for information with the Public Information Officer, Opponent herein, on 14/04/2007. The Public Information Officer replied on 15/5/2007 that the “Petitioner (President of GALA) did not cooperate with the Police and further enquiry is shelved”. It is important to note that the Police referred Shri. Fortunate Menezes, President of the Association as the Petitioner and Shri. Silvano Rebello as Opponent and their own investigation as an “inquiry”.

4. On the notices having been issued, a reply was filed by Shri. Santosh Desai, an authorized person on behalf of the Opponent, who is the Public Information Officer, supported by an “affidavit” which was not sworn before any Magistrate or Notary. Hence, the said affidavit has to be ignored. It is interesting to note that an opportunity was given to the Public Information Officer to file his reply before this Commission and appear in person or duly authorized agent for hearing on merits. As opposed to this, a reply was filed by an authorized person who was also present for the hearing alongwith his Advocate.

5. The main point of the Complainant is that when a criminal case is brought to the knowledge of the Police, they have to register a FIR as embezzlement of funds and theft of financial documents are criminal offences and the Police Inspector Incharge of Margao Police Station has no business to start an “inquiry” without registering the FIR. Therefore, he asked for information under which provisions of the Police Act, or Police Manual, the police has refused the registration of FIR as well as started inquiry. He also

asked for a copy of the statement recorded by the Police, if any, of Shri. Silvano Rebello. The Public Information Officer has not directly answered this question and instead dismissed all the queries from clause (a) to (j) in point No. 7 in one sentence that the Opponent (Shri. Silvano Rebello) was not being protected, that the complaint lodged by the Petitioner (F. Menezes) is vague and hence, the inquiry is shelved for want of co-operation from the Petitioner. This, in our view, is not a complete and correct reply to the specific questions posed by the Complainant. For instance, the Complainant wanted to know under para No. 7 (a) of the request, whether the Police Act of 1861, or Police Manual, gives any discretion to the Police to register or not to register a criminal case when it was brought to their notice. Other questions are also about the certified copies of the relevant Police Act or Manual and whether Shri. Silvano Rebello was taken into custody and interrogated and who are the Police officials who interrogated him and to furnish copies of the statement recorded by the Police. These questions have no relevance with the cooperation or lack of it by the GALA. We, therefore, have no hesitation in setting aside both the impugned order of the first Appellate Authority dated 10/7/2007 and the Public Information Officers' reply dated 15/5/2007.

6. We direct the Public Information Officer to give specific replies to the Complainant within one month from the date of this order on the points raised by the Complainant at para 7 (a) to (j) of his request dated 14/04/2007. In the circumstances, we are not inclined to proceed with the prayer initiating penalty proceedings against the Public Information Officer at this stage.

Pronounced in the open court on this 10th day of January, 2008.

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

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

/sf.