

GOA STATE INFORMATION COMMISSION

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

Complaint No. 27/2006/BMC/P

Shri Santosh Y. Dicholkar
H. No. 89, Gaonkarwada,
Bicholim - Goa.

..... Complainant.

V/s.

Public Information Officer,
The Chief Officer,
Bicholim Municipal Council,
Bicholim - Goa.

..... Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated: 30/11/2006.

Complainant in person.

Adv. Agni for the opponent.

ORDER

In this case, a notice was issued to the Public Information Officer/opponent to show cause as to why the penalty of Rs.250/- per day should not imposed on him for failure to supply the information to the Complainant. The opponent has now submitted his reply and the learned Adv. Agni has also argued on behalf of the opponent. The delay was explained in terms of the application requesting for information was not clear to the opponent and hence, the Complainant was called to visit the opponent's office on 22/8/2006. Now, the request for information is dated 12/7/2006, the letter sent to the Complainant to visit the opponent's office is dated 11/8/2006 (on the 30th day) and the date fixed for meeting is 22/8/2006 (41st day). This is already mentioned in our earlier order dated 19/10/2006. The delay is not explained even now. At the time of arguments, the learned Advocate tried to justify the delay saying that there are various Departments within the Council who have to

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put up the letter of the request to the opponent and this is a normal administrative delay. We are afraid this cannot be accepted for the simple reason while enacting the RTI Act, a specific provision has been made under Section 7(1) of the Act to furnish the information within a maximum of 30 days of making the request. Further, the burden of proving that the delay, if any, caused by the PIO has to be proved by the PIO himself under Section 20(1) second proviso. We will now see whether the opponent has acted reasonably and diligently on the request of information dated 11/7/2006. The request itself contains three points on which the information is sought. These are mentioned in our original order but we will reiterate once again. The first point is about the construction being carried by Mr. Rajaram @ Satish Gaonkar and Mr. Babi Arjun Gaonkar r/o Gaonkar wada, Bicholim. The construction by them is being carried out in survey No. 86, Sub-Division - XXV. These particulars are enough for the Municipal Council to either agree with or to deny the factual position according to their records. No clarification is required from the Complainant in this regard. The second point is a request for details of licence issued to the above persons. Here also, there is no confusion in understanding the request. The third request is not specific in the sense that the exact documents requested are not mentioned. However, even here, the opponent could have mentioned that he has not understood what the Complainant wants and could have requested for more details. However, non-submission of information on first two points cannot be justified. Similarly, calling the Complainant to the office for clarifications 41 days after the request and issuing the notice to that effect on the last date provided under Act are not justified. The Commission also is not willing to accept the pushing of responsibility by the opponent to his subordinates for the delay. It is precisely to stop such shifting of responsibility by the PIO, the Act provides for specific time limit for reply as also fixes the personal responsibility on the PIO to give the information. Merely because the Complainant has visited the office of the opponent for clarification on 22/8/2006 does not mean that the responsibility of the opponent cast on him under Section 7(1) is discharged. The information was neither given on the same day or a subsequent day close to that date. He was further called to the Council almost after another 15 days to collect the documents. Even on that day, no documents were given to the Complainant. Finally, the justification given by the opponent that he was called away to Panaji

on election duty on that date (5/9/06) is also not acceptable because the information once collected can be given by any subordinate official of the opponent. The learned Advocate tried to argue that as the law requires the PIO to give the information he has to physically hand over the information. We are afraid that this is not interpretation either of the Section 6 or Section 7 of the Act. By this, we mean that, though the information is to be requested from the PIO, the applicant need not physically meet the PIO and hand over to him his request for information. Similarly, though the PIO is responsible to give the information under Section 7, it is not necessary for him to physically hand over the information to the Complainant. An official is designated as PIO in the Public Authority so that the citizen is not required to go from person to person to inquire as to who will give him the information. For the above reason, the absence of PIO on duty elsewhere, authorized though he may be, does not absolve him of his responsibility to give the information as soon as possible but not later than 30 days from the date of request. The 30 days time limit prescribed under the Act to give the information is the maximum permissible limit. The PIO is expected to give the information much earlier, "as expeditiously as possible". This position of law is mentioned at Section 7(1) itself of the Act. Finally, the learned Advocate for the opponent argued that the opponent has a unblemished record of service with Goa Government and that he has highest regard for the law and cooperated and worked to render all assistance to the citizens. It is all the more reason why he has to take extra care to protect his reputation and record. In any case, past record will not absolve him of his duty cast on him under Section 7(1) of the RTI Act. Consequently, the Commission is not satisfied with the cause showed by the opponent and imposed on him a penalty of Rs.2500/- to be recovered from his salary and deposited to the Municipal fund. Compliance should be reported to the Commission within 15 days from the date of this order.

(A. Venkataratnam)
State Chief Information Commissioner, GOA.

(G.G. Kambli)
State Information Commissioner, GOA.