

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

Complaint No. 35/2007-08/

Mr. Angelo D'Souza,
351, Ruzaivaddo,
Santa Cruz – Goa. Complainant.

V/s

1. The Public Information Officer,
The Secretary,
Village Panchagat of Santa Cruz,
Santa Cruz – Goa. Opponent

CORAM:

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

(Per G. G. Kambli)

Dated: 20/02/2008.

Shri Tarzan D'Costa learned Adv. for the Complainant .
Opponent in person.

O R D E R

The Complainant vide his application dated 01/08/2007 requested the Opponent to provide certain information. As the Complainant did not receive any response within the stipulated period of 30 days, the Complainant filed this present complaint before this Commission under section 18 of the Right to Information Act 2005 (hereinafter referred to as Act), and prayed, interalia, that the Opponent be directed to provide the information forthwith, that the opponent be penalized under the Act by imposing the penalty of Rs 250/- per day delay, that an inquiry be initiated against the Opponent, and the Opponent be directed to pay compensation/cost to the Complainant. Upon issuing the notices, one Shri Mariano Aguiar who was holding the charge of Opponent has submitted

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a copy of the reply dated 31/08/2007 issued by the then V.P. Secretary to the Complainant in response to the application dated 01/08/2007. The Complainant has denied of having received the said letter issued by the then V. P. Secretary. The Opponent has also failed to produce any documents in support of either having issued the said letter to the Complainant or any acknowledgment from the Complainant.

2. Coming now to the application dated 01/08/2007 it is seen that the complainant had sought information on 5 points. On perusal of the reply dated 31/08/2007, the then V. P. Secretary had not furnished the information on the point at (c). As regards the point (d), the then V. P. Secretary had replied that NOC and occupancy certificates were issued on the basis of the approval given by the Public Work Department and Health Department. So far as the information pertaining to the point (e) the then V. P. Secretary requested the Complainant to give the House number of Shops and Garages.

3. Subsequently, the Opponent vide letter dated 22/01/2008 has furnished a copy of the letter dated 13/10/2003 in respect of building No. A2. As regard the other building bearing No. C and A3, the Opponent informed the Complainant that the letters from the PWD and Health Department are not available in the concerned file and he has requested the PWD and the Health Officer to provide the copies of the same.

4. The Complainant filed his written submission. The matter was also argued personally. Shri Tarzan D'Costa, the learned Adv. for the Complainant submitted that the so called letter dated 31/08/2007 was not received by him and he came to know about the same only after filing the complaint and the Opponent produced it before this Commission. He further contended that the said reply does not contain the information on point (c). Even the information on point (d) was not provided in toto. In the subsequent letter, the Opponent has given the information only in respect of building A2 and has not given any information regarding the buildings C and A3 therefore the Opponent has not provided the complete information and suppressed the same. Shri D'Costa learned Adv. for the Complainant

further submitted that the Opponent was well aware of the building in respect of which the Complainant sought the information on point No. (e) and therefore there was no need for the Opponent to ask the Complainant to give the House Nos. of the Shops and Garages. Despite the Complainant has given the details of the house numbers to the Opponent and yet the Opponent has not provided the information on point No. (e).

5. During the course of the hearing, the Opponent has not justified as to why the complete information could not be provided on points (c), (d) and (e). So far as the information on point (c) is concerned the then V. P. Secretary who is the Public Information Officer has not provided any information and therefore, he is liable for action under section 18 read with section 20 of the Act. Similarly, the information provided on point (d) is also not correct. The then V.P. Secretary has informed the Complainant that the NOC and the occupancy certificate were issued on the basis of the approval given by the P.W.D. and Health Department. The Complainant sought the information in respect of three buildings bearing Nos. A2, C and A3. As on the date of the issue of the letter dated 31/8/2007 the Opponent was not having the same in the concerned file the approval from the PWD and Health Department and in respect of the building C and A3 and therefore the then V.P. Secretary has provided false information to the Complainant. During the hearing, the learned Adv. for the Complainant admitted of having received the copy of plan of the buildings including the site plan and therefore motorable expenses, if any will be shown in the said plan from which the Complainant can verify whether the motor access are existing or not. Therefore, the reply to the point No. (c) can be checked from the plan provide to the Complainant.

6. Turning now to the information on point No. (e) which relates to payment of taxes to the panchayat in respect of shops and garages, the Complainant was seeking information in respect of the buildings No. A2, C and A3 which was within the knowledge of the Opponent and, therefore, the Opponent ought to have verified from the records and provided the information to the Complainant. The learned Adv. for the Complainant

submitted that the Complainant has also provided the details of the House numbers to the Opponent which is not denied by the Opponent. No justification has come from the opponent as to why the details of the taxes levied by the panchayat for shops and garages situated in these 3 buildings could not be provided to the Complainant.

7. It will be seen from the above that the Opponent has not provided the information on point No. (c) and point No. (e) and further provided the false information on point No. (d). The Opponent has not explained as to why these information could not be provided to the Complainant. Therefore, this is a fit case to invoke the provisions of section 18 read with section 20 of the Act as prayed for by the Complainant.

8. In the result, we pass the following order.

O R D E R

The Opponent is hereby directed to provide the information to the Complainant on point (e) within 10 days from the date of this order, and the remaining information on point (d) on getting the copies of the approval given by the PWD and Health Department in respect of building C and A3. We also direct Shri Babu R. Naik, the then Public Information Officer to show cause as to why penalty should not be imposed on him under section 18 read with section 20 of the Act, on 10/03/2008 at 11.00 a.m.

Announced in the open Court, on this 20th day of February, 2008.

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

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