

GOA STATE INFORMATION COMMISSION

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

Complaint No. 40/2006/Elect.

Ms. Freeda Coutinho
H. No. 171/5,
Villa Fair View Building,
Feira Alto, Mapusa - Goa.

..... Complainant.

V/s.

1. Public Information Officer,
The Superintending Engineer,
Elect. Circle - II (N),
Panaji - Goa.
2. First Appellate Authority,
The Chief Electrical Engineer,
Vidyut Bhavan, Panaji - Goa.

..... Opponents.

CORAM :

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

(Per G. G. Kambli)

Dated: 12/02/2007.

Complainant in person.

Opponents are represented by Adv. K. L. Bhagat.

ORDER

This will dispose off the complaint dated 30/11/2006 filed by the Complainant wherein he has prayed for taking action and imposing the penalties against the erring officials of the Opponents for harassing the Complainant and delaying in providing the information under the Right to Information Act, 2005 (for short the Act). The case of the Complainant is that the Complainant has made several requests through her various letters addressed to the Asst. Engineer, Executive Engineer and Chief Electrical Engineer for providing certain information under the Act. The Opponents and in particular the Opponent No. 2 has not denied of having received these various letters. Both the Opponents have filed their replies in Affidavit but these Affidavits have not been sworn before the competent authorities and they cannot be treated as Affidavits in reply but only the replies. The Opponent No. 1 has denied of having received any application from the Complainant under the Act. Similarly, the Opponent No. 2 has also denied of having filed any appeal before him by the Complainant.

...2/-

2. It is seen from the complaint that the Complainant addressed the letter dated 23/2/2006 to the Asst. Engineer seeking information. This was followed by another letter dated 24/2/2006 to the Opponent No.2. The Opponent No. 2 has forwarded the applications of the Complainant to the Executive Engineer, Div. VI, Mapusa with a copy to the Complainant. The Complainant again approached the Asst. Engineer, Mapusa and also thereafter to the Executive Engineer, Div. VI, Mapusa. The Complainant submitted that since he did not receive any reply he filed the appeal before the Opponent No. 2 vide letter dated 7/4/2006. The office of the Opponent No. 2 forwarded the said appeal of the Complainant to the Opponent No. 1 vide letter dated 17/4/2006. Ultimately, he received the letter dated 3/5/2006 from the office of the Executive Engineer, Mapusa asking the Complainant to collect the information.

3. It is a fact that the Complainant has not addressed any application to the Opponent No. 1 seeking information under the Act. However, neither the Opponent No. 1 nor the Asst. Engineer or Executive Engineer has forwarded the application of the Complainant to the Opponent No. 1 who has been designated as a Public Information Officer for the said Department. In fact, the Opponent No. 2 ought to have referred the application dated 24/2/2006 to the Opponent No. 1 under Section 6 (3) of the Act instead he has forwarded the said letter to the Executive Engineer with a direction to provide the information to the Complainant knowing fully well that the Executive Engineer, Div. VI, Mapusa is not the Public Information Officer. It is only when the Complainant filed an appeal, the Opponent No. 2 referred said letter to the Opponent No. 1 for disposal. The Opponent No. 1 in turn directed the Executive Engineer, Div. VI, Mapusa to provide the information to the Complainant.

4. The procedure followed by the Opponents in dealing with the applications of the Complainant is not in accordance with the provisions of the Act. In fact, the Asst. Engineer and Executive Engineer who received the applications requesting for information under the Act, should have referred the applications of the Complainant to the Opponent No. 1 for taking appropriate decision. Similarly, the Opponent No. 2 ought to have referred the letter dated 24/2/2006 to the Opponent No. 1. The Opponent No. 1 should not have also forwarded the application of the Complainant to the Executive Engineer giving direction to provide the information to the Complainant. The Opponent No. 1 should have obtained the information from the Executive Engineer, Div. VI, Mapusa where such information was available under Section 5 (4) of the Act and

then provide the same to the Complainant. We have held in several cases that it is the duty of the Public Information Officer to provide the information after collecting the same. Therefore, the Opponent No. 1 has erred in forwarding the application of the Complainant and directing the Executive Engineer to furnish the information to the Complainant.

5. It is seen from the complaint that the Complainant has been made to run from pillar to post and her applications are not properly processed in accordance with the provisions of the Act which has not only caused the delay but also harassment to the Complainant as rightly pointed out by the Complainant in her complaint. The Opponent No. 1 cannot be held responsible for the delay because neither the Complainant nor the Asst. Engineer or Executive Engineer has forwarded the applications of the Complainant to the Opponent No.1. He came to know about the application for the first time when he received the same from the office of the Opponent No. 2 on 17/4/2006. And according to him the information has been furnished within the prescribed time limit of 30 days.

6. As stated above, the Opponent No. 2 and his officials namely; the Asst. Engineer and Executive Engineer have not followed the provisions of the Act thereby putting the Complainant into harassment. Had the Opponent No. 2 or the Asst. Engineer or the Executive Engineer had forwarded the applications of the Complainant at the initial stage to the Opponent No. 1 the delay could have been avoided. In this case, we agree that the Complainant has been harassed as she was representing to the authorities seeking information. Hence, we feel that this is a fit case to compensate the Complainant.

7. We, therefore, direct the Opponent No. 2 to compensate the Complainant to the extent of Rs.1000/-. The compensation should be paid to the Complainant within a period of two months from the date of the receipt of this order.

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

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

