

GOA STATE INFORMATION COMMISSION

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

Complaint No. 49/2006/PWD

Miss Mishel D'Sa
H. No. 116, Pirazona, Moira,
Bardez - Goa - 403514.

..... Complainant.

V/s.

1. Public Information Officer,
Superintending Surveyor of Works,
Public Works Department,
Altinho, Panaji - Goa.
2. The Asst. Public Information Officer
Works Division XVII (PHE-N),
Public Works Department,
Alto - Porvorim, Bardez - Goa.
3. First Appellate Authority,
Principal Chief Engineer,
P.W.D., Altinho, Panaji - Goa.

..... Opponents.

CORAM :

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

(Per A. Venkataratnam)

Dated: 21/03/2007.

Complainant in person.

Authorized representative Karuna Bakre, Legal Officer represented
Opponent No. 1 and Opponent No. 2 present in person.

ORDER

The present complaint arises out of the information supplied by the Executive Engineer, Div. XVII (PHE-N), PWD, Alto-Porvorim, Bardez - Goa to the Complainant in compliance with the orders of this Commission dated 3/1/2007 while disposing the earlier appeal No.45/2006/PWD by the same Complainant. The present grievance is that the information given to her is incorrect and hence, the Public Information Officer should be penalised. The Complainant also wants to be compensated to the extent of Rs.1000/-. The brief facts of the case are that the respective PWD Division has prepared an estimate for "improvement of water supply to Moira" for an amount of Rs.1,78,86,637/-.

...2/-

A technical sanction for Rs.1,66,77,517/- was issued on 16/5/2006 and the administrative approval and financial sanction was accorded on 28/9/2006. The advertisement was issued in "Herald" on November 1, 2006 calling for the tenders. In the tender notice, copy of which was submitted by the Complainant, the estimated cost of the work was shown as Rs.1,59,94,947/-. The Complainant also says that when she verified the files in the office of the Asst. Engineer of the Sub-Div. III, Div. XVII at Mapusa the provisional estimate amount was shown as Rs.1,97,36,700/- and the estimated cost shown as Rs.1,77,79,300/- and technical sanction was obtained for Rs.1,66,77,517/-. As all the figures are different the Complainant is of the opinion that incorrect information was given to her.

2. Notices were issued to both the Complainant and the Public Information Officer and Public Information Officer submitted that he is no longer the Public Information Officer and has become an Appellate Authority. The then Asst. Public Information Officer who has furnished the information has now become the Public Information Officer and therefore, the then Public Information Officer refused to give any submission before the Commission as Public Information Officer. He was also afraid that by giving such information he will commit an offence of "personation" which may attract the penal action under the Indian Penal Code. We have gone into this matter a number of times and have held that the notification changing the Public Information Officers in the PWD, for that matter anywhere, will have a prospective effect. There is no doubt that the Public Information Officer in this case is the Superintending Surveyor of Works both on date of seeking information and furnishing the information. The notification changing his status as first Appellate Authority w.e.f. 22/12/2006 is not applicable in this case. There is, therefore, no valid reasons for Shri Anil A. Parulekar to be afraid of committing an offence under Indian Penal Code if he files the reply as directed by this Commission. In fact, he has committed an offence by not obeying the directions lawfully given by this Commission and is liable to be charged under Section 188 of the IPC. In addition, in this very case, even while he was Public Information Officer instead of giving the information himself as required under Section 7 of the RTI Act, he has directed the Asst. Public Information Officer to give the information. This also is not correct. Shri A. Parulekar instead of complying with the directives of the Commission tried to act cleverly and land himself in trouble.

3. Coming back to the case proper, the Executive Engineer has explained the discrepancy as follows: - That the estimated cost is Rs.1,59,94,964/- which is ought to be the amount put to tender and is published in newspapers. The technical sanction takes into consideration the quality control charges by RITES at 1.15% and services charges and contingencies at the rate of 10.2% and 3% respectively. Thus, technical sanction was awarded for Rs.1,66,77,517/-. However, this does not take into consideration 7.5% centage charges making the total at 1,78,86,637/- for which the administrative approval and the expenditure sanction were issued. He further submitted that there are no contradictions and no change of figures and that the information given by him is correct. Regarding the mentioning of "re-inviting" the tender for this work, which was published in the newspapers, it was a simple case of typing error which the Commission agrees and hopes that the Department will be more careful in future. He explained the difference between preliminary estimate and estimated cost as the normal changes at the time of preparation of estimates depending on the site conditions. The preliminary estimates were not to be taken into consideration when final estimates are prepared.

4. While perusing the reply there is a minor change noticed by the Commission. The estimated amount is Rs.1,59,94,964/- whereas the amount published in tender notice in the newspaper is less by Rs.17/- and printed as Rs.1,59,94,947/-. This was not explained and the Commission directs the Division to be more careful while giving information to the citizens. With this, we close the complaint by rejecting the same. As to the prayer of the Complainant for imposing penalty on the Public Information Officer and compensating her, we are not inclined to proceed with the penalty proceedings as we are satisfied that the Department has taken sufficient care and pains to furnish the information.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner