

GOA STATE INFORMATION COMMISSION

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

Complaint No. 51/2006/

Ms. Milan G. Natekar,
Sadhasiva- Bhuvan,
Mapusa – Goa.

.... Complainant.

V/S

The Public Information Officer,
Ex-Officio, Joint Secretary,
Directorate of Education,
Panaji –Goa

.... Opponent.

CORAM:

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

(Per G. G. Kambli)

Dated: 25/04/2007

Complainant in person.

Shri Avinash V. Nasnodkar, A.E.O. (Legal) represented Opponent.

O R D E R

This will dispose off the complaint dated 9/2/2007 filed by the Complainant against the Opponent. The case of the Complainant is that on inspection, the complainant requested the Opponent to provide the copies of certain documents vide application dated 5/12/2006. The Opponent vide note dated 5/1/2007 provided the information to the complainant. The Opponent has provided the information on certain points, as follows.

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| III | 186/c letter from GPSC
No.COM/1/1/15/1705/754dated
03/11/2006. | N.A. |
| XIV | 146/c letter No.COM/11/11/15
(1)05 dated 12/06/2006 regarding
filling up the post of Curator
clarify. | N.A. |

...2/-

- XV 117/c letter from GPSC to communicate seniority list of Librarian may be sent if not then kindly clarify under what provision of Rule the department to fill up the post by promotion N.A.
1. Copy of the Seniority list of the common cadre of the Librarian post from the Directorate of Education, Technical Education and Higher Education. N.A.
 2. Why the post of curator was not filled up by promotion after retirement of V. B. Hubli as the post filled by direct recruitment through GPSC N.A.
 3. Why the Librarian from the Engineering College was not considered for promotion for the post of Curator in the Central Library when it was fallen vacant due to retirement of Shri V. B. Hubli. N.A.

2. The Complainant sought the clarification from the Opponent regarding the word NA and it was clarified that NA means not available. The Complainant stated that the Complaint could not file the first appeal to the First Appellate Authority since there was no first Appellate Authority nor the Opponent provided the information to the Complainant as required by section 7 (8) of the Right to Information Act 2005 (for short the Act).

3. Upon issuing the notices, the Opponent filed reply stating that the information sought by the complainant was provided except in respect of point at Sr. No. III, XIV, XV since the same is not available in the file. The Commission on perusing the matter and the reply dated 5/1/2007 directed the Opponent to provide the information and submit the compliance report on 9/4/07. On 9/4/2007 the complainant filed the written submission. The Opponent also filed the reply stating that the information has already been furnished to the Complainant vide letter dated 4/4/2007.

4. The Complainant also submits that the Opponent has subsequently provided the information in respect of points 1,2 and 3 as follows:-

1. Copy of the Seniority list of the common cadre of the Librarian post from the Directorate of Education, Technical Education and Higher Education. Not Available
 2. Why the post of curator was not filled up by promotion after retirement of V. B. Hubli as the post filled by direct recruitment through GPSC. I do not know.
-3/-

3. Why the Librarian from the Engineering College was not considered for promotion for the post of Curator in the Central Library when it was fallen vacant due to retirement of Shri V. B. Hubli. I do not know.

5. It is to be noted that the Complainant sought the information vide application dated 5/12/2006 and the Opponent has replied the same vide note dated 5/1/2007 i.e. on 31st day from the date of the application. The Opponent has waited till the expiry of 30 days and thereafter provided the information to the Complainant. In fact as per sub-section (1) of section 7 of the Act the information is to be provided as expeditiously as possible but not later than 30 days. It is not understood as to why the Opponent could not provide the Information to the Complainant earlier and waited till the expiry of 30 days. The Opponent has subsequently corrected the information on the 3rd points as stated above and therefore, the Opponent did not provide the correct and complete information to the complainant. In the reply filed before the commission, the Opponent submitted that the information is not available in the file. However, it is surprising that on direction from the commission, the Opponent has provided the Information in the respect of certain points.

6. The Complainant is not satisfied with the replies given by the Opponent and submitted that still the Opponent his not provided the information on the following 3 points.

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|---|---------------|
| 1. Copy of the seniority list of the common cadre of the Librarian post from the Directorate of Education, Technical education and Higher Education. | Not Available |
| 2. Why the post of curator was not filled up by promotion after retirement of V.B. Hubli as the post filled by direct Recruitment through GPSC. | I do not know |
| 3. Why the librarian from the engineering College was not considered for promotion for the post of curator in the central Library when it was fallen vacant due to retirement of shri V. B. Hubli | I do not know |

7. The Opponent has also not justified or given the reasons as to why the information on the above 3 points could not be provided to the Complainant.

At point no. 1 the complainant has sought the copy of the seniority list of the common Cadre of the librarian post from the Directorate of Education, Technical Education and Higher Education. It is not clear from the reply given by the Opponent as to whether the seniority list was drawn and the same is not presently available or whether the seniority list is not at all drawn. The reply to this point is not specific and the same is very vague. As regard information on the remaining two points given by PIO's, "I do not know", the Act doesn't envisage the information should be within the knowledge of the PIO. It is the duty of the PIO to provide the information from the records and the knowledge of the PIO is not relevant or material. The Opponent has also not justified as to why the information on these 3 points could not be provided.

8. On perusal of the reply given by the Opponent and the subsequent reply, it is crystal clear that the Opponent has not provided the complete information and the information so provided was vague and misleading. The information can be denied only on the grounds specified in section 8, 9 and 11 of the Act. The reply given by the Opponent in respect of the above 3 points do not fall in either of these sections. The Complainant has alleged that the Opponent has deliberately and with ulterior motive delayed the disclosure of the information and also provided incomplete information and prayed for imposing the penalty on the Opponent. The Opponent has not given any reply to this allegation and therefore, we direct the Opponent to show cause as to why the penalty of Rs. 250/- per day delay should not be imposed in terms of section 20 of the Act for providing incomplete vague and misleading information as well as for the delay. The reply to show cause notice to be filed on 28/5/2007 at 11.00 a.m.

9. We also direct the Opponent to provide the information to the Complainant on the 3 points mentioned above within 15 days from the date of the receipt of this order and submit the compliance report on the afore said date and time.

10. Parties be informed.

Sd/-
Shri G. G. Kambli
State Information Commissioner

Sd/-
Shri A. Venkataratnam
State Chief Information Commissioner

