

GOA INFORMATION COMMISSION

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

Complaint No. 53/2007-08/US(PER)

Dr. M. N. Pal,
Ex-Dean (G.M.C.),
11, GOMECA Hsg. Society,
Bambolim – Goa.

..... Complainant.

V/s.

1. The Public Information Officer,
The Under Secretary (Personnel – I),
Secretariat, Porvorim – Goa.
2. The first Appellate Authority,
The Joint Secretary (GA),
Secretariat, Porvorim – Goa.

..... Opponents.

CORAM :

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

(Per A. Venkataratnam)

Dated: 29/02/2008.

Complainant in person.

Adv. Mrs. Harsh Naik for Opponents.

ORDER

The matter has already come before us earlier by way of second Appeal No. 70/2006 which came to be dismissed as not maintainable. At that time, the Complainant came before us under section 19(3) of the Right to Information Act, 2005 (for short the RTI Act) even though he was not aggrieved by the order dated 18/12/2006 of the first Appellate Authority, the Opponent No. 2 herein. Thereafter, he approached Opponent No. 2 for execution of his own order dated 18/12/2006. It is interesting to note that even after allowing the first appeal by the First Appellate Authority by his order dated 18/12/2006, the Public Information Officer, Opponent No. 1 herein did not comply with the order and instead called the Complainant for personal hearing before him. As there is no such provision in the Act, the Complainant rightly refused to attend the personal hearing whereupon the Opponent No. 1 by his order dated 5/01/2007 rejected the request once again

...2/-

even after the first Appellate Authority has directed him to give the information. The Complainant thereupon approached the first Appellate Authority on 23/4/2007 once again for execution of his order dated 18/12/2006 of the Opponent No. 2. Finally, on 21st May, 2007, the first Appellate Authority arranged the inspection of files in his chamber eight months after the original request by the Complainant dated 29/09/2006. The inspection was done and the Complainant took notes of the records and took copies of certain documents. On 5/7/2007, he filed another first appeal No. 40 before Opponent No. 2 pointing out various observations that he has noted while inspecting his personal files while he was in Government service. His grievance is that there are two files namely No. 7/5/74-PER (Vol. II) and another file of even number Vol. VIII. It is his case that Vol. VIII of the file consists of photocopies not arranged chronologically, the same pages containing a number of page numbers and finally an additional note of 10 pages by the Ex-Chief Minister (which was not in the other file Vol. II), was found in the Vol. VIII. He contended that this is manipulation of his personal file and wanted the Opponent No. 2 to punish the Opponent No.1. We do not know the result of this appeal. However, on 12th December, 2007, present complaint is filed before us praying interalia (i) to collect a fine of Rs.250/- per day till the inspection of file is allowed and pass on the amount to him; (ii) to recommend disciplinary action against both the Opponents; (iii) to give the directions to Opponents to prepare the catalogues, index and page numbers the files and (iv) finally to give the directions to all the Departments for implementation of provisions of RTI Act.

2. Notices were issued and the Complainant appeared in person and argued his case. Both the Opponents were represented by Government Counsel, Adv. Mrs. Harsha Naik who filed the written statements on behalf of both the Opponents. A rejoinder also was filed by the Complainant maintaining his earlier charges that the files were tampered with.

3. In the written statements of the Opponents, a preliminary objection was raised that the present complaint is not maintainable as the information asked by the Complainant was already given, inspection of the files was allowed and that he did not challenge any orders in the present appeal. Without prejudice, they have denied all the allegations of the Complainant and prayed that exemplary compensatory costs should be recovered from the

Appellant for filing this abusive, misleading and vexatious complaint. They have also filed a statement of the various papers given to the Complainant and also receipt of payment for the information supplied.

4. The points for determination are whether there is any manipulation of personal file of the Complainant, whether the records were properly maintained as per the manual of office procedure by giving page numbers etc., whether there is any delay in allowing the inspection of files.

5. We have already seen that the Complainant requested for inspection of files way back on 29/09/2006 and he was finally allowed inspection in the chamber of the Opponent No. 2 who is the first Appellate Authority on 21/05/2007. There is, therefore, considerable delay in allowing access to the files. The reasons for the delay has not been explained by any of the Opponents. We have also observed as mentioned earlier that the Opponent No. 1 who is the Public Information Officer has not even obeyed the orders of the first Appellate Authority, Opponent No. 2 herein and refused the request of the Complainant even after it was granted by the First Appellate Authority. Both these actions show hesitation on the part of Opponent No. 1 to provide the access to the Complainant to his personal files maintained by the Department while the Complainant was in service of Government. Though, we do not find any malafides on the action of the Public Information Officer, we hereby warn him to be more careful in future in dealing with the requests under the RTI Act as well as follow the orders of the first Appellate Authority promptly. As to the manipulation of files by opening a separate file Vol. VIII by photocopying the contents of Vol. II, the explanation given is that the original file was required by and submitted to the Learned Advocate General while dealing with a number of Writ Petitions filed by the Complainant against the Government in the Hon'ble High Court of Bombay, Panaji Bench. They have, therefore, taken photocopies of the documents and prepared a part file in which they have added further correspondence generated afterwards. That is how the original note/order of the Ex-Chief Minister was found from 707/C to 710/C in Vol. VIII and not in Vol. II. As the duplicate was prepared for a specific purpose and period, normal procedure requires combining of both the files when the original was received back in the Department. This would have sorted out the confusion in page numbering as well as the apprehension in the mind of the Complainant.

This procedure should be followed strictly in future which is a part of the office procedure and also enter in the register of the files the newly opened files and again merged with original files. This record is important to avoid such complaints by the citizens.

6. With these observations, we dispose off the Complaint. As we do not find any malafides, we are not in a position to agree to the prayers of the Complainant either to penalize the Public Information Officer, or to recommend disciplinary action against both Opponents or to pass on the penalty to the Complainant. We, therefore, dismiss this Complaint with a warning to the Public Information Officer mentioned at para 5 above.

Announced in the open court on this 29th day of February, 2008.

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

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