

## **GOA INFORMATION COMMISSION**

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

Complaint No. 62/2007-08/PWD

Shri. Alexinho F. Monserrate,  
Santarbat, Piedade,  
Divar, Ilhas - Goa.

..... Complainant.

V/s.

1. The Public Information Officer,  
The Executive Engineer,  
Public Works Department,  
Works Division II,  
Patto, Panaji – Goa.

2. The Principal Chief Engineer,  
Public Works Department,  
Altinho, Panaji – 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.

Opponent No. 1 in person. Representative of Opponent No. 2 present.

### **ORDER**

This disposes off a complaint dated 14/01/2008 filed by the Complainant regarding the non-compliance of the order dated 15/12/2006 passed by the Commission in earlier complaint No. 38/2006/PWD. The brief facts of this case were already set out in the two orders passed earlier by this Commission dated 11/10/2006 in Appeal No. 15/2006 and order dated 15/12/2006 in Complaint No. 38/2006. In the order dated 15/12/2006, the Principal Chief Engineer was directed to hold an inquiry and take appropriate action against the erring officer and also against Shri. Sheldarkar, Executive Engineer, Works Division – II, the Opponent herein in this case, for assuming the powers of the Public Information Officer. Further, he was directed to report compliance to this Commission within 3 months. Even 9 months later, as no action was taken by the Principal Chief Engineer, the present complaint is filed by the Complainant for execution of our order.

...2/-

2. Notices having been issued to both the Opponent No. 1 and the Opponent No. 2, a reply was filed by the Opponent No. 2, namely, the Principal Chief Engineer. No statement was filed by the Opponent No. 1. The Principal Chief Engineer submitted that an inquiry was held by Shri. Anil Parulekar who held that Shri. P. B. Sheldarkar, Executive Engineer – II did not assume the powers of the Public Information Officer as he was on Earned Leave from 18/05/2006 to 11/06/2006 and was not on duty on 8/6/2006 when the Complainant initially made his request for the information under the Right to Information Act, 2005.

3. It is surprising that officer of the rank of the Principal Chief Engineer did not follow the direction given by the Commission in its order dated 15/12/2006. The order is not at all difficult to understand, if one gives even a casual reading. The inquiry ordered by this Commission was not to determine the role of Shri. Sheldarkar but find out and fix responsibility against the officer who had misled the then Hon'ble Chief Minister which resulted in informing the Complainant by the Chief Minister's office by letter No. 1-21-2002-CM/1749 dated 11<sup>th</sup> March, 2002 that the work of the road at Village Panchayat Goltim-Navelim was completed, whereas infact it was not so. We have on record a letter dated 16/10/2006 replied by Shri. P. B. Sheldarkar to the Complainant that only a portion of the road was black topped and the work of black topping of the remaining portion was cancelled at the request of Village Panchayat Goltim-Navelim. It is this contradiction of the stands taken by the PWD earlier before the then Chief Minister's office and now on 16/10/2006 by the PWD, that led us to order an inquiry to determine which statement is correct and who was responsible for misleading the then Chief Minister's office. On the other hand, instead of doing the needful as ordered, the Principal Chief Engineer chose Shri. A. Parulekar, the then Superintending Surveyor of Works and then Public Information Officer at the time of initial request of the Complainant, for holding the enquiry.

4. We have already found in our earlier orders that the then Public Information Officer Shri. Parulekar was not kept informed of either the receipt of the original request for information under the RTI Act or the reply given to the Complainant. That is why in our earlier order, we have absolved the Public Information Officer of his responsibility. The Opponent No.1, Shri. Sheldarkar who was the Asst. Public Information Officer at that point of time

has now become Public Information Officer by virtue of a subsequent notification by the Principal Chief Engineer. As Asst. Public Information Officer, he had no jurisdiction to enter into correspondence with the citizens making requests for information. We have held in a number of cases that the role of the Asst. Public Information Officer is limited to receiving the applications/appeals and forwarding them to the appropriate authorities. This is an additional facility given to the citizens in remote areas so that they need not travel up to the office of the Public Information Officer, which is sometime at the District Headquarters. This is not a power given to the Asst. Public Information Officers to independently dispose off the requests for information. We were not sure as to who actually entertained and replied to the Complainant while Shri. Sheldarkar was on leave. It has come on record now that Shri. Dilip Mulgaonkar officiating Executive Engineer during the leave period of Shri. Sheldarkar has assumed the powers of the Public Information Officer. Infact, based on our observations in this very case, the then Principal Chief Engineer has already issued a circular to all his subordinate officers about the role of the Asst. Public Information Officer. The action against the then Asst. Public Information Officer, Shri. Mulgaonkar is not an issue before us. As this was done in the early stages in the implementation of the RTI Act, we drop further action against Shri. Mulgaonkar.

5. The main issue of giving false information to the Complainant remains. The Principal Chief Engineer inspite of clear directions given to him in this regard has miserably failed to fix responsibility as to who has mislead the then Chief Minister's office in believing that the entire work was completed when infact only a portion of it was completed and the remaining was stopped at the request of the Village Panchayat Goltim-Navelim. We, therefore, find that the Principal Chief Engineer has not taken up this matter seriously. During the course of hearing, the Complainant has brought to our notice that the Principal Chief Engineer, PWD and Public Information Officer, Executive Engineer, Works Division – II, Patto, Panaji had filed a Writ Petition No. 220 of 2007 before the Hon'ble High Court of Bombay at Goa, Panaji Bench against our order directing the Principal Chief Engineer, PWD to hold an enquiry and to compensate the Complainant to the extent of Rs.1000/- and that it was subsequently withdrawn by the PWD. We are not aware of this development, as we did not get any notice from the Hon'ble High Court of Bombay, Panaji Bench. The fact remains that the Principal

Chief Engineer tried to mislead this Commission by ordering an enquiry into a non-issue just as his Department misled the Chief Minister's office earlier. We, therefore, order an enquiry to be conducted by the Directorate of Vigilance. This order alongwith earlier two orders should be sent to them. A copy of this order may also be sent to the Secretary (PWD) for necessary action by the Government.

6. The Complainant was already compensated to the extent of nominal compensation of Rs.1000/- earlier. As to the failure on the part of the Principal Chief Engineer now, we take a lenient view and warn him to be more careful in future. However, to prevent any such incidents of wrong reporting by his officers, responsibility should be fixed on the Engineer concerned and take further action. For this purpose, we ordered the Vigilance enquiry now.

7. With the above observations, the complaint is allowed.

Announced in the open court on this 29<sup>th</sup> day of February, 2008.

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

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