

GOA STATE INFORMATION COMMISSION

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

Complaint No. 66/2006/GAPL

Shri P. V. Desai
B2F10, Excel Residency,
Caranzalem – Goa.

..... Complainant.

V/s.

Public Information Officer,
Shri D. N. Shetty
Goa Antibiotics & Pharmaceuticals Ltd.,
Tuem, Pernem – Goa.

..... Opponent.

CORAM :

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

(Per G. G. Kambli)

Dated: 09/05/2007.

Complainant in person.

Opponent also in person.

ORDER

This is a complaint dated 22/3/2007 filed by the Complainant against the Opponent under Section 18 of the Right to Information Act, 2005 (for short the Act). The case of the Complainant is that the Complainant vide application dated 25/1/2007 sought the following information from the Opponent.

- 1) Details of salary and allowances paid to myself, Mr. P. V. Desai, from time to time during my tenure of services to GAPL (date of joining : 12.11.1991, date of retirement : 31.07.2005).
- 2) Details of salary and allowances paid to the following from time to time (who were also working as AGM in GAPL) during their tenure of services to GAPL,--
 - a) Shri. U. G. Anvekar
 - b) Shri. D. S. Sanzgiri
- 3) The date of resignation and the date of accepting their resignation and relieving from services to GAPL of the following:

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- a) Shri. U. G. Anvekar – Asst. General Manager
 - b) Shri D. S. Sanzgiri – Asst. General Manager
 - c) Shri F. Gonsalves – General Manager (finance)
- 4) The educational qualification and work experience in detail at the time of joining GAPL of the following:
- a) Shri. U. G. Anvekar – Asst. General Manager
 - b) Shri D. S. Sanzgiri – Asst. General Manager
 - c) Shri F. Gonsalves – General Manager (finance)

The Opponent acknowledged the letter of the Complainant and advised the Complainant to contact the Opponent on 24/2/2007 between 3.00 to 5.00 p.m. the Registered Office Tuem, Pernem vide letter dated 19/2/2007. The Opponent also informed the Complainant that the Complainant has to deposit the additional fee/other expenses if any prior to collecting the data/documents. The Complainant wrote back to the Opponent presuming that the information sought by the Complainant has been kept ready. The Complainant, therefore, requested to inform the amount which the Complainant is required to pay so that the Complainant can make the payment at city office. The Opponent sent another letter dated 5th March, 2007 requesting the Complainant to deposit the additional fees towards postal charges at their Registered Office at Tuem during the working hours. The Complainant again wrote the Opponent requesting the Opponent not to evade to issue and again requested the Opponent to specify the exact amount of fees which the Complainant is required to deposit. As the Opponent failed to provide the information, the Complainant filed the present complaint against the Opponent.

2. The notice was issued to the Opponent and the matter was fixed for hearing on 10/4/2007. One Shri Vishnu Kerrikar remained present on behalf of the Opponent without authority letter. The Commission directed the Opponent to provide the information on collecting Rs.8/- from the Complainant on 16/4/2007 at 11.00 a.m. at Panaji office of the company and the compliance report has to be reported on 18/4/2007 at 11.00 a.m. On 18/4/2007, both the Complainant and Opponent remained present. The Complainant filed the reply stating that the Complainant has not been provided with complete information. A copy of the reply was given to the

Opponent who was asked to file his say on the next date of the hearing which was fixed on 25/4/2007. On 25/4/2007, both the Complainant and Opponent remained present. The Opponent filed the reply and arguments were heard.

3. It is interesting to note that the Opponent by the registered A/D letter dated 21/3/2007 informed the Complainant that his request for information was not as per the prescribed format under the Act and it was confusing. In the said letter, the Complainant was asked to collect the information in time from the Registered Office which was within the purview of the laws and rules of the Right to Information Act. In para 2 of the said letter, the Opponent also asked the Complainant to deposit Rs.58/- out of which Rs.50/- for sending 2 registered A/D letters. This letter is dated 21st March, 2007 and copy of the same was endorsed to the Secretary of this Commission which was received in the Commission's office on 2/4/2007. The notice of the Commission was issued on 26/3/2007. This clearly shows that this letter has been issued only after the receipt of the notice by this Commission because the notice of the Commission was not before the Opponent on 21/3/2007. We also fail to understand as to how the Opponent has come to the decision that the request of the Complainant was required to be made in the prescribed format under the Act. We do not find any provision in the Act or Rules framed thereunder prescribing any format for seeking the information. This is a willful and deliberate attempt on the part of the Opponent to delay the disclosure of the information and to frustrate the Complainant. If at all the request was to be made in the prescribed format, the Opponent ought to have made it clear in his earlier letter dated 19/2/2007. It is only on the receipt of the notice of the Commission, the Opponent has stated that the request for information was not in the prescribed format. The amount of fees to be paid was also specified in the said letter after the receipt of the notice of the Commission.

4. On the date of the hearing on 10/4/2007, the Opponent did not file any reply nor stated that the information sought by the Complainant is not traceable. It is only when the Complainant makes an application dated 18/4/2007 alleging that the information provided to him was incomplete, the Opponent comes with plea that certain information is not traceable.

5. The Complainant also alleged that he has been provided the details of the salary and allowances paid to 3 personnel only from the year 1996-97 and

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therefore, the information pertaining to these employees prior to the year 1996-97 has not been provided. The Complainant also made grievances that he has not been provided the details of the salary and allowances monthwise. On perusal of his application dated 25/1/2007, we do not find the request of the Complainant to provide the information monthwise. The Opponent vide reply dated 25/4/2007 stated that the records regarding the salaries and allowances paid to 3 employees are not traceable as they were maintained manually and hence, they could not provide the information upto 1995. At no point of time, the Opponent has stated that the records regarding the payment of salaries and allowances to the 3 employees are not traceable. The Opponent has written a number of letters to the Complainant but the Opponent has never stated that the records pertaining to the period prior to 1996 were not traceable. This is clearly an afterthought and deliberate attempt on the part of the Opponent to deny the information to the Complainant who is an ex-employee of the Opponent.

6. The procedure for disposal of application is laid down in section 7 of the Act. As per sub-section (1) of section 7 of the Act, the information sought by the citizen is to be provided as expeditiously as possible and in any case within 30 days from the date of the receipt of the request. Under clause (a) of sub-section (3) of said section 7 of the Act, the Public Information Officer has to inform the details of the further fees payable by the citizen. The Opponent failed to comply with the provisions of sub section (3) of section 7 of the Act. On the contrary, the Opponent started raising flimsy and irrelevant reasons. In spite of the Complainant having requested to inform the exact amount of the additional fees payable by the Complainant, the Opponent failed to discharge his statutory obligation under the aforesaid provisions. The Opponent therefore has not acted in good faith. The Opponent has also not given the reasons as to why there has been a delay in providing the information to the Complainant.

7. The other issue that arises for our determination in this case is as to where the citizen has to collect the information. The Opponent is having Registered Office at Tuem, Pernem Goa and also City Office at Panaji. Nothing has come on record before us as regards to the location of the office of the Opponent. As per the provisions of the Act, the information is to be provided by the Public information Officer and therefore, the information has to be supplied at the Office of the PIO.

8. The Opponent has deliberately issued the letter dated 21/3/2007 with back date after the receipt of the notice from the Commission to show that the Opponent has intimated the amount of additional fees to be paid by the Complainant. The conduct of the Opponent in dealing with this matter does not appear to be in good faith. The Opponent has not acted diligently but on the contrary tried to harass the Complainant to the greatest extent.

9. We are, therefore, satisfied that this is a fit case for initiating penalty proceedings under section 20 of the Act and therefore, we hereby direct the Opponent to show cause as to why the penalty proceeding should not be initiated and the penalty of Rs. 250/- per day delay should not be imposed in accordance with the provisions of the Act.

10. In these circumstances the Complaint dated 22/03/2007 is allowed. The Opponent is directed to provide the complete information to the complainant as the reasons given by the Opponent that the records were maintained manually and hence are not traceable is not at all convincing. The Opponent shall trace the old records prior to 1996 pertaining to the payment of salary/allowance to the 3 employees mentioned therein and provide the same to the Complainant within 15 days from the date of receipt of this order. The Opponent is also directed to file compliance report and also to file reply to the show-cause notice on 7/6/2007 at 11.00 a.m.

Parties to be informed.

(G. G. Kamblı)
State Information Commissioner

(A. Venkataratnam)
State Chief Information Commissioner