

GOA INFORMATION COMMISSION

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

Complaint No. 68/2007-08/Police

Shri. Jowett D'Souza,
H. No. 139, Ambeaxir, Sernabatim,
Colva, Salcete – Goa.

..... Complainant.

V/s.

The Public Information Officer,
The Superintendent of Police (South),
Town Police Station, Margao – Goa.

..... Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated: 27/03/2008.

Complainant in person.

Opponent also in person.

ORDER

This is a complaint filed on 30th January, 2008 by the Complainant alleging that the orders passed by this Commission on 17th January, 2008 allowing the three appeals filed by the Complainant earlier before the Commission, are not obeyed by the Opponent. By his earlier appeals, the Complainant brought to the notice of the Commission that his car financed by the ICICI Bank was attached by the Bank and sold to the third party for non-payment of certain loan instalments. The car was subsequently transferred out of Goa by forging the Complainant's signature on the documents of transfer of registration approved by the local R.T.O. According to the Complainant, this is illegal and has requested the Police to register a case against the ICICI Bank and the RTO officials and take up investigation. It is the case of the Complainant that there is an abnormal delay in investigation and he suspected the collusion of the Bank officials, RTO officials and the Police. In fact, he has directly accused that corruption is involved while investigating the criminal case. He has also asked for a number of details to

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satisfy himself and also help the Police in the proper investigation of the alleged crime.

2. The Public Information Officer and the first Appellate Authority have rejected the request made by the Complainant earlier under the Right to Information Act, 2005 (RTI Act for short). They had taken recourse to section 8(1)(h) of the RTI Act that revealing the information would “impede the process of investigation” by the Police in the criminal complaint.

3. A notice was issued to the Public Information Officer, Opponent herein, asking him to show cause why action should not be initiated against him for disobeying/not implementing the orders of the Commission. The Public Information Officer appeared before us and submitted his affidavit in reply. The only cause shown for non-implementation of order of this Commission is that the Police Department is contemplating to file a Writ Petition and requested the Commission to keep this order in abeyance till the High Court disposes the Writ Petition. The order of this Commission was passed on 17/1/2008 in the open court. Already more than 52 days have passed by (from 17/1/2008 to 10/3/2008) and not even the Writ Petition is filed by the Police Department, not to speak of a stay order by the Hon’ble High Court.

4. By his reply, the Public Information Officer has also stated his intention not to implement the order of this Commission as “it would be a precedent for the culprits in other crimes, which are under investigation”. We have already considered this argument in the main appeals and held that the Complainant is not a “culprit” as alleged by the Police but he is only an informant. He cannot tamper with any evidence or threaten any witnesses against the accused in the criminal complaint registered by the Police, as it would harm his own case. Already two and half years have passed by after the registration of the FIR (No. 52 dated 10/8/2005 of Maina Curtorim Police Station). We have already decided that the Complainant cannot impede the process of prosecution, but he will help the Police to expedite the process of investigation if the information requested by him is provided to him. There is, therefore, no force in the arguments of the Opponent.

5. For the above reasons, we reject the reasons cited by the Opponent requesting the Commission not to take any action against him. The matter

is serious and pending for a long time and there is an intentional, deliberate and willful refusal by the Public Information Officer even after a direction by this Commission. The Public Information Officer was directed to provide the information to the Appellant within 10 days from the date of the order. The time limit of 10 days expired on 27th January, 2008. The Public Information Officer did not furnish the information as on the date of the hearing i.e. on 10th March, 2008. Thus, there has been a delay of 43 days which are willful, deliberate and malafide. We, therefore, consider it appropriate to impose a penalty of Rs.10,750/- on Shri. Shekhar Prabhudesai, the Public Information Officer to be recoverable from his salary for months of April and May, 2008 in equal instalments. We are also recommending the initiation of the disciplinary proceedings against Shri. Shekhar Prabhudesai, Supdt. of Police, Margao for willful disobedience of the orders of this Commission. A copy of this order should be sent to the Chief Secretary, (Home Dept.), Secretariat for initiating disciplinary action and to the Jt. Director of Accounts, Margao for recovering penalty from the salary of Shri. Shekhar Prabhudesai.

Pronounced in the open court on this 27th day of March, 2008.

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

Sd/-
(G. G. Kambli)
State Information Commissioner, GOA.