

GOA INFORMATION COMMISSION

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

Complaint No. 69/2007-08/VP

Shri. C. S. Barreto,
H. No. 206, Mazalvaddo,
Assagao, Bardez – Goa.

..... Complainant.

V/s.

Public Information Officer,
The Secretary,
Village Panchayat Candolim,
Candolim, Bardez - Goa.

..... Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated: 06/05/2008.

Complainant present in person.

Adv. Vivek Rodrigues for the Opponent.

ORDER

This matter has arisen because the Complainant was given wrong and incomplete information by the Opponent. The brief facts of the case are that on 18th December, 2007 when the Complainant approached the Opponent for information and documents regarding the construction licence issued to Shri. V. P. Fernandes in respect of a hotel/restaurant constructed in survey No. 148/5 of the Candolim village, the Opponent who is the Public Information Officer, has informed the Complainant on 14th January, 2008 to come and collect the documents on payment of prescribed fees. When the Complainant collected the copies of documents on 31st January, 2008, he found it surprising that though the correct licence is given pertaining to the project, a wrong plan was enclosed to the construction licence. The case of the Complainant is that he was deliberately given a wrong copy of the plan. He has, thereafter, filed this complaint immediately on 4th February, 2008 praying for a direction to furnish correct information and documents by the Public Information Officer alongwith a prayer to impose severest punishment "so that it should act as a severe

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deterrent to others who may also be trying to mislead/suppress information as in the present case". Notices were issued to both the parties and the Complainant argued for himself and Adv. Vivek Rodrigues appeared on behalf of the Public Information Officer. A written reply was also filed by the Opponent to which a correct plan is attached now by his reply dated 10/3/2008 before us.

2. While taking up the arguments, the learned Adv. Rodrigues on behalf of the Opponent stated that the Opponent has no reason to suppress information and giving the wrong plan was a genuine mistake. In any case, the correct plan is given now and the request stands complied with. He has also taken up the plea that the Complainant has approached the Commission without exhausting the first appeal remedy. Hence, he has requested the complaint to be dismissed.

3. This Commission has held that as a matter of course, the first appeal has to be filed and the Commission has to be approached only by way of a second appeal. However, this does not take away the discretionary powers vested in the Commission to entertain a complaint under section 18 even before the first appeal is filed or is decided. Section 18(1)(e) clearly mentions that the State Information Commission can receive and inquire into a complaint from any person who believes that he or she has been given incomplete, misleading or false information under this Act (RTI Act). We, therefore, entertain this complaint in our discretion.

4. In reply to the statement filed by the Opponent, the Complainant stated that even now proper plan is not given and what is given now is only an extension of the project which existed earlier in the same property. On the other hand, the learned Advocate submitted that the records prior to 1994 were not available with the Panchayat and hence, original plan could not be issued to the Complainant. He has also enclosed a copy of the affidavit dated 19/11/2007 filed by the Opponent in the Hon'ble High Court of Bombay, Goa Bench in a Writ Petition No. 6/2007, where he has mentioned specifically about the same project and survey No. 148/5 which housed a hotel called "Hotel Silver Sands". He mentioned that the Panchayat could locate records pertaining to the hotel only from the year 1994.

5. This does not explain why the Opponent could not inform Complainant of this position right in the beginning itself when he was called on 14/01/2008 to collect the information especially when the affidavit in the High Court was filed

only on 19/11/2007 and the misplaced records was fresh in the mind of the Opponent. We are, therefore, convinced that the Opponent has tried to mislead, though unsuccessfully, the Complainant firstly by giving wrong plan and subsequently giving the plan for the extension without mentioning the same that too as an enclosure to the reply filed before this Commission. Shri. Eknath Talkar, the Public Information Officer is directed to show cause why a penalty of Rs.250/- per day from 18th January, 2008 should not be imposed on him for giving misleading information to the Complainant. Case to come up for further hearing on 3/6/2008 at 11.00 a.m.

Announced in the open court on this 6th day of May, 2008.

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

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