

**GOA STATE INFORMATION COMMISSION**

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

Complaint No. 7/2006/VP

Smt. Agnes D'Silva  
R/o Vignesh Ward,  
Maddo waddo, Calangute,  
Bardez – Goa.

..... Complainant.

V/s.

Public Information Officer,  
Village Panchayat Calangute,  
Naika Waddo, Bardez – Goa.

..... Opponent.

**CORAM :**

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

(Per A. Venkataratnam)

Dated: 30/03/2007.

Complainant in person.

Adv. Pranay Kamat for the Opponent.

**ORDER**

This will dispose off the complaint dated 29/6/2006 filed by the Complainant against the Opponent under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the said Act).

2. The facts of the case are that the Complainant sought the following information vide application dated 27/03/2006 from the Opponent under the Act :-

- i) Licence No.VP/CAL/F-33/04-05/2098 dated 4/11/2004.
- ii) Letter No.VP/CAL/F-11/98-99/3420 dated 27/10/98.
- iii) Letter No.VP/CAL/F-11/97-98/2792 dated 28/1/98.
- iv) Letter No.VP/CAL/F-11/99-2000/2290 dated 3/11/99.
- v) Copy of all temporary shack licence granted in Maddo Vaddo for the tourist season 2005 to 2006.
- vi) Licence No.VP/CAL/F-13/93-94/L-39/1958 with approved plan.

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The Opponent vide his reply dated 28/4/2006 after the expiry of statutory period of 30 days informed the Complainant that the Complainant did not mention the names and also sought some time to search for the records. The Complainant, therefore, approached this Commission by the present complaint dated 29/06/2006 requesting that the documents sought by the Complainant be provided at the earliest. The Complainant states that the Opponent refused to accept the application fees stating that the same could be paid at the time of collection of documents. The Complainant further stated that the Complainant made several visits to the office of the Opponent but the Opponent did not provide the information.

3. The notice was issued to the Opponent. On 12/7/2006 the Opponent remained present alongwith his Advocate and prayed for time which was granted. During the course of the pendency of the complaint, the Opponent vide letter dated 22/07/2006 provided certain information to the Complainant. As regards the documents at Sr. No. 2, 3 and 4, the Opponent replied stating that the copies of these documents are not available in the Panchayat's records. Accordingly, the Opponent filed the reply stating that the documents sought by the Complainant have been provided to the Complainant under the letter dated 22/7/2006. The Complainant immediately reacted and informed the Opponent stating that the Complainant had requested certified copies of the documents of all the temporary shacks' licences granted in Maddo Vaddo in Calangute for tourist season 2005-06 and inspite of the several visits, the Complainant has not been provided with all the copies of the temporary shacks' licences. The Complainant has further alleged that the letter No.DB/9367/1523/93 dated 29/11/1993 provided to the Complainant is not as per the original copy and that the same has been tampered with.

4. The Opponent in his reply dated 4/9/2006 filed before the Commission submitted that the Opponent has compiled part of the information and the details of the cases have to be updated from the various advocates engaged by the Panchayat. The Opponent has also submitted that on account of the audit inspection, the records of the last year of the Panchayat were submitted to the office of the Block Development Officer and the audit is going on since 22/8/2006. The opponent stated that on account of the workload and due to

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the audit inspection, the Opponent could not compile the information and requested another one month's time for giving the information. The Opponent by his letter dated 12/10/2006 informed the Complainant that 3 more licences were found to be issued in Maddo Vaddo for the season 2005-06 and the copies of those licences were given to the Complainant. As regards the condition No. 12 imposed in the licence regarding the access road, the Opponent replied that the same is as per the records of the Panchayat. The Opponent also filed an affidavit stating that as per the records available with the Panchayat that the condition No. 12 was imposed in the licence dated 21/1/1994 issued to late A. J. Caes D'Silva and that the same is not tampered. The Complainant, thereafter, moved a miscellaneous application alleging that the information provided by the Opponent is false. The Complainant produced the letter dated 29/11/1993 issued by the Town and Country Planning Department, Mapusa wherein there was no condition No. 6 imposed in their letter whereas the certified copies issued by the Opponent of the said letter of the Town and Country Planning Department there is condition No. 6 regarding 3 mts. access. She also produced a copy of the plan of the buildings which was approved by the Town and Country Planning Department wherein no access was shown. Whereas the certified copy of the plan issued by the Opponent contains 3 mts. access road. The Commission, therefore, issued the summons to the Sr. Town Planner, Mapusa, the Technical Officer/Asst. Engineer and the Opponent. The Sr. Town Planner, Mapusa was directed to produce the NOC letter dated 29/11/1993 alongwith its all enclosures and plans. The Technical Officer/Asst. Engineer, P.W.D., Mapusa was directed to remain present alongwith the file leading to the technical approval accorded and the application for licence issued to late Aristides J. C. D'Silva. The Opponent was directed to remain present alongwith Panchayat records containing plans, the Panchayat Resolution, licence for construction issued in respect of the said residential construction. The notice was issued to the Technical Officer/Assistant Engineer was returned unserved. The representative of Sr. Town Planner, Mapusa remained present. He was directed by the Commission to file the certified copies of the NOC dated 29/11/1993 alongwith a short reply. The Opponent though remained present belatedly at 12.10 p.m. alongwith his advocate did not bring his original resolution book of the Panchayat on the basis of which the licence was granted and hence, the Opponent was directed to produce the original resolution book alongwith certified copies of the resolution on 17/11/2006 at

11.00 a.m. On 17/11/2006, the Opponent submitted a letter stating that the Opponent wanted to place the matter before the Panchayat body bringing the fact to their notice as the matter is 12 to 13 years old. Subsequently, the Opponent has sent the copy of the Resolution No. 13 passed by the Panchayat in its meeting held on 28/11/2006. However, the Opponent failed to remain present and produce the original book containing the Resolution No. 4(c) passed by the Panchayat in its meeting held on 9/12/1993 and therefore, Commission passed an order on 5/1/2007 directing the Opponent to remain present on 30/1/2007 at 11.00 a.m. alongwith original book containing the said resolution. In pursuance of the said order, the Opponent remained present with his advocate but did not bring the original book of the resolution and sought time. The request was granted and matter was posted for hearing on 15/2/2007. On 15/2/2007 the Opponent filed an affidavit stating that the original book containing the original resolutions of the Panchayat for the year 1993 is not found in the Panchayat records and therefore, expressed his inability to produce the same before the Commission.

5. It will be seen from the above that the Complainant sought the information from the Opponent on 27/3/2006 and therefore, the Opponent ought to have provided or rejected the request of the Opponent within statutory period of 30 days i.e. on or before 26/4/2006. On the contrary, the Opponent has sent the reply to the Complainant on 28/4/2006 stating that the Complainant has not given the names and requesting for time to search for the records after the expiry of 30 days period. The Opponent again provided certain information which was also not complete in accordance with the request made by the Complainant. The Opponent in his letter dated 22/7/2006 has admitted of not having furnished the information on the points at Sr. No. 2, 3 and 4 on the ground that the records are not available. In spite of this, the Opponent did not provide the complete information to the Complainant and the Opponent has admitted in his application dated 4/9/2006 filed before the Commission that the Opponent could not provide the complete information on the ground that he was busy with the audit inspection which was going on from 22/8/2006 and the Opponent is incharge of 2 Panchayats. The Complainant again made the grievances and the Opponent again provided some more information to the Complainant under letter dated 12/10/2006. On perusal of the said letter dated 12/10/2006 of the Opponent sent to the Complainant, it is seen that the Opponent did not

provide the complete information to the Complainant regarding the licences issued to shacks for the tourist season 2005-06 in Maddo Vaddo, Calangute as 3 more licences were made available to the Complainant alongwith the said letter. Therefore, it is crystal clear that the Opponent did not provide the information to the Complainant at one time but the same was provided in piece meal and that too when the Complainant pointed out deficiencies and the Commission ordered the Opponent to provide the information. As far as the allegation of the Complainant that the Opponent has provided the false information and tampered with certain documents, it is noticed that in the letter dated 29/11/1993 of the Associate Town Planner there was no condition No. 6 regarding access. Similarly, there is no 3 mts. access road shown in the plan approved by the Town and Country Planning Department. However, in the documents produced by the Opponent condition No. 6 has been added in the letter dated 29/11/1993 of the Town and Country Planning Department and similarly, an access of 3 mts. road has been shown in the plan. Being so, the certified copies issued by the Opponent as well as by the Town and Country Planning Department do not tally. It is not understood as to how a condition can be incorporated in the letter dated 29/11/1993 of the Town & Country Planning Department by the Panchayat when the said document pertains to the Town and Country Planning Department. By incorporating such condition one gets an impression that the said condition has been imposed by the Town and Country Planning Department while giving their NOC, though it is not true.

6. The Opponent was directed to produce the original book of the resolution of the Panchayat containing the Resolution No. 4(c) passed by the Panchayat in its meeting held on 9/12/1993. Instead of producing the said original book before the Commission, the Opponent has given an excuse stating that the Opponent wanted to place the matter before the Panchayat as it is more than 12 to 13 years old. Infact, the Opponent ought to have complied with the direction of the Commission being Public Information Officer and in possession of the information. At no point of time from date of filing the application by the Complainant and during the course of the proceedings, the Opponent has come with a plea that the original book of the resolution of the year 1993 of the Panchayat is not available. It is only when the Commission issued an order, the Opponent has come with a plea stating that the original book of the Resolution of the year 1993 is not available

which according to the Commission is nothing but an afterthought.

7. The Complainant has made several allegations stating that the Complainant has made several visits to the office of the Opponent but no information was provided by the Opponent. This has not been denied by the Opponent. There has been a considerable delay in giving the information to the Complainant by the Opponent on one pretext or the other and the Commission is not at all satisfied with the explanation given by the Opponent. The Opponent has given the first reply to the Complainant on 28/4/2006 when there was no audit and no explanation has come from the Opponent as to how he could not give the reply to the Complainant within the statutory period of 30 days as required by sub-section (1) of Section 7 of the Act. That apart, the Opponent has provided incomplete information to the Complainant and therefore, the Opponent is also liable for the penalty under Section 20 of the Act. From the conduct of the Opponent during the course of the proceedings, it becomes clear that the Opponent has deliberately and malafidely did not provide the information to the Complainant within the specified time limit and also not provided the complete information at a time. This has caused tremendous harassment to the Complainant. The Complainant has been made to suffer a loss as the Complainant has made several visits which have not been denied by the Opponent for obtaining the information. It is also pertinent to note that the Opponent in his reply dated 28/7/2006 has informed the Complainant that the documents at Sr. No. 2, 3 and 4 are not available.

8. So far as the allegation of the Complainant that the documents have been tampered, the Opponent has produced the Resolution passed by the Panchayat in its meeting held on 28/11/2006 wherein the Panchayat has assumed the responsibility of having incorporated in the letter of the Associate Town Planner the said condition. The important document of the Panchayat containing the Resolution of the year 1993 is not produced stating that it is not available. In fact, such a important document needs to be preserved by the Panchayat Secretary. Therefore, we direct the Director of Panchayats to hold proper inquiry and find out and fix the accountability on the persons who were responsible for misplacing and or for destroying said important document. The outcome of the inquiry may be reported to the Commission within a period of 3 months.

9. We have observed and satisfied that the Complainant has been harassed and put to much inconvenience and hardship in not providing the information in time and causing abnormal inordinate delay. We, therefore, direct the V.P. Calangute under Section 19(8)(b) of the Act to compensate the Complainant.

10. In the instance case, we have observed that the Opponent has not provided the information to the Complainant within the statutory period. That apart, the Opponent has also not provided the complete information at a time. Even during the pendency of the proceedings, the Opponent has delayed in providing the information which appears to be malafide and deliberate on the part of the Opponent. Hence, we are of the view that this is a fit case for initiating penalty proceedings under Section 20 of the Act against Shri Eknath Talkar, Public Information Officer. Shri Talkar is, therefore, hereby directed to show cause as to why the penalty of Rs.250/- per day delay should not imposed on him as well as for providing the incomplete information. The next hearing in this case is posted on 19/04/2007 at 11.00 a.m. Shri Eknath Talkar, Secretary, Village Panchayat Calangute be served through the Block Development Officer, Bardez. Parties to be informed.

(A. Venkataratnam)  
State Chief Information Commissioner

(G. G. Kamblı)  
State Information Commissioner

