

## **GOA INFORMATION COMMISSION**

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

Complaint No. 72/2007

Shri. Menino Gomes,  
H. No. 466, Near Tonca Bridge,  
Post Marcela – Goa.

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Complainant.

V/s.

1. The Public Information Officer,  
Superintendent of Police (North),  
Porvorim, Bardez – Goa.
2. The first Appellate Authority,  
The Deputy Inspector General of Police,  
Police Head Quarter, Panaji – Goa.
3. The Public Information Officer,  
Captain of Ports Department,  
Panaji – Goa.

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Opponents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 13/08/2008.

Complainant in person.

Adv. K. L. Bhagat for the Opponents. Opponent No. 3 in person.

### **ORDER**

This disposes off the complaint dated 21/02/2008 alleging that the Public Information Officer, Opponent No. 1 herein has not complied with the orders earlier passed by this Commission on 10/01/2008 in a second Appeal No. 88/2007-08. By that order, two directions were given to the Public Information Officer, namely (i) to state in clear terms whether any FIR was lodged by the Captain of Ports with the Police Department; (ii) to transfer a portion of the original application by the Complainant to the Captain of Ports to answer and trace out the report of investigation/inquiry said to have been forwarded by the then Police Inspector Shri. Mahesh Gaonkar into the complaint lodged by the Complainant earlier with the Captain of Ports.

2. The Public Information Officer has forwarded the portion of the information request to the Captain of Ports for necessary action and also informed the Complainant that after due verification of records, it was found that no FIR was lodged by the Captain of Ports at that point of time against the alleged offence informed by the Complainant. In the present complaint, the Complainant maintains that the information has been refused to him. He, therefore, prayed for appropriate orders be pronounced

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as deemed fit.

3. Notices were issued and the Opponent No. 1 has filed his written statement mentioning that the orders are complied with and the present complaint be dismissed. Similarly, the Opponent No. 3 who is the Public Information Officer, Captain of Ports Department has also submitted his written statement that all possible efforts were made to find alleged report of investigation submitted by the then Police Inspector in the matter and that it is not available in his Department.

4. The Public Information Officer of the Captain of Ports Department, Opponent No. 3 herein, has also submitted alongwith his reply a letter No. PI/OLG/5142/1999 dated 12/08/1999 sent by the then Police Inspector, Old Goa Police Station on this subject which was received by the Captain of Ports Department on the same date. This clearly mentions that the Old Goa Police Station has not taken any action in respect of the alleged complaint of illegal filling of River Mandovi waterway pending the show cause notice issued by the Captain of Ports and in fact requested the Captain of Ports to complete his preliminary inquiry so that the Police can take "legal action". The Public Information Officer has also filed a copy of his complaint lodged with the Old Goa Police Station through the PCR by wireless message dated 30/07/1999. This message confirms that a complaint is lodged with the Old Goa Police Station about illegal filling being carried out in Government riverine land at Old Goa between Konkan Railway Bridge and Rahul sea food. He further submitted an internal note of the same date submitted to the Captain of Ports alleging this offence and the site inspection conducted by the officials of the Captain of Ports Department. It is clear from this that the Police were informed by the Captain of Ports office while alleged offence was continuing and that the Police has not initiated any action except to request the Captain of Ports to complete their preliminary inquiry. On the other hand, the Public Information Officer of the Police Department, Opponent No. 1 herein, through his Adv. Mr. K. L. Bhagat submitted an unsigned copy of the outward register of the Old Goa Police Station of the concerned period wherein the letter No. 5142 dated 12/8/99 was shown as dispatched to the Captain of Ports. He has also submitted a copy of the inward register again unsigned wherein letter No. 1517 dated 4/8/99 from the Captain of Ports which was received by the Police Station on 7/8/99. The copy of the letter No. 5142 dated 12/8/99 of Police is submitted by the Public Information Officer of the Captain of Ports Department. As already mentioned, the letter did not enclose any report conducted by Shri. Mahesh Gaonkar, Police Inspector, (as he then was).

5. The above discussion clearly establishes that the Police has neither registered any FIR nor investigated into the crime though it was informed in writing by the Captain of Ports while a cognizable offence was continuing. It is in this context, the reply of the Public Information Officer, Superintendent of Police (North), Porvorim dated 6/8/2007

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annexed as A-2 to the second Appeal No.88/2007 to the Complainant herein is significant. The said reply states that the inquiry was conducted by Shri. M. Gaonkar and a detailed report was sent to the Captain of Ports by outward No. 5142 dated 7/8/99. This is clearly a wrong reply. The copy of the letter was produced by Opponent No. 3 and no inquiry was conducted.

6. The fact remains that in such a serious offence case neither the Captain of Ports nor the Police have taken any action except exchanging correspondence with one another. Nevertheless this matter is outside the scope of the Right to Information Act to go into the reasons of inaction or wrong action by the public authorities. We are only concerned with the disclosure of information by the public authority. It is clear that both the Police and the Captain of Ports could not give the alleged report of Shri. M. Gaonkar as it did not exist at all. It is true that initially the Public Information Officer of the Police Department has given wrong information to the Complainant. However, during the hearing of the second appeal No. 88/2007 earlier, the Police have claimed to have destroyed the miscellaneous papers of that period. This might have resulted in giving the wrong information by the Police to the Complainant. As we do not find any deliberate attempt to mislead the Complainant or give wrong information, we are not inclined to start penalty proceedings against the Public Information Officer of Police Department. The Public Information Officer at the time of the hearing of second appeal was Neeraj Kumar who is transferred out of Goa and now another officer is holding the post. However, we warn him to be more careful in future while replying to the citizens under the RTI Act.

7. With the above observations, the complaint now filed by the Complainant is dismissed.

Pronounced in the open court, on this 13<sup>th</sup> day of August, 2008.

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

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