

## **GOA INFORMATION COMMISSION**

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

Complaint No. 76/2007-08/GIDC

Shri. Allan Falleiro,  
H. No. 400, Toleband,  
Loutolim, Salcete – Goa.

..... Complainant.

V/s.

The Public Information Officer,  
The Chief General Manager,  
Goa Industrial Development Corporation,  
Panaji – Goa.

..... Opponent.

### **CORAM :**

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

(Per A. Venkataratnam)

Dated: 17/04/2008.

Complainant present in person.

Opponent is also present in person.

### **ORDER**

This disposes off the complaint dated 15<sup>th</sup> February, 2008 alleging that the Opponent did not give the complete and correct information to the Complainant's request for information dated 23/07/2007 inspite of two orders from this Commission. The Complainant mentioned that "the PIO of the GIDC does not care about the orders of the commission or the esteemed State Information Commission is helpless before the PIO of the GIDC". The matter has taken rather lengthy and circuitous course resulting in such despair of the Complainant. A brief description of the request and the replies given by the Opponent on his own or on the direction of this Commission will be in order.

2. The Complainant requested information on 6 points. Information on 2 points was already given by the Opponent. Even after a direction to the Complainant to clarify the names of the 4 organizations in whose favour the land at Phase IV at Verna was allotted by the Goa Industrial Development Corporation (GIDC) in order to give further information to his question, the

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Complainant on his part was also obstinate and did not inform the Opponent as directed in the order of this Commission. We, therefore, treat this matter as closed as far as this point is concerned. This leaves only 3 questions in the field to be answered by the Opponent. All the 3 questions have a common thread in them as they referred to the land acquired for Phase IV for industrial estate at Verna by the GIDC. Question 3 asked reasons and basis on which the land was allotted to the companies to set up parks/SEZ; question 4 is about the allotment of 7.91 lakhs sq. mts. to K. Raheja Corporation Pvt. Ltd. who have advertised for a comprehensive lengthy township "MindSpace" at Verna, Goa. The question is how could the land acquired for Phase IV of Verna industrial estate can be used for setting up a township. Finally, the 5<sup>th</sup> question is about the efforts made by the GIDC to stop the establishment of such township in that industrial estate namely, Phase IV of Verna.

3. All the questions except first one was rejected initially by the Opponent almost one year ago on the ground that the information requested by the Complainant is not information within the definition of section 2(f) of the Right to Information Act, 2005 (RTI Act for brief). The learned Opponent stated that the citizens cannot seek information in the form of questions. This Commission has passed the initial order dated 13/12/2007 in second appeal No. 78/2007 filed by this Complainant himself laying down the principle that the citizen is entitled to seek information by way of questions. As per section 8(g) of the RTI Act, the information shall be furnished in the form in which it is sought (by citizens). The Commission has interpreted it to mean citizens can ask questions and receive the answers from the public authorities. Thereafter, an effort was made by the Public Information Officer, Opponent herein, to give further information. At the same time, the Commission has already held in case No. 51/2006, Milan G. Natekar Vs. Director of Education that the Public Information Officer is not expected to give the reasons for taking a decision in a particular manner by the public authority except by way of furnishing the record available with that public authority explaining the reasons, if any, for taking a decision in a particular manner. This is also confirmed by the Hon'ble High Court of Bombay, Panaji Bench in their order dated 3<sup>rd</sup> April, 2008 in Writ Petition No. 419/2007. Strictly speaking, therefore, the Complainant is not entitled to know the reasons from the GIDC why the land was allotted to the parks/SEZ by the

GIDC. However, as question No. 3 posed by him also seeks basis on which the land was acquired and allotted, the Commission in its order dated 30/01/2008 in the complaint No. 55/2007 by the present Complainant held that such information can be given by the Opponent and specifically the Opponent was directed to give the information on 3 points namely, policy/criteria of allotment of industrial plots, the communication from Government of Goa requesting the GIDC to establish parks in Goa; and copy of the Gazette notification for acquisition of land by the GIDC. Consequently, the Public Information Officer, Opponent herein, has complied with the orders of the Commission dated 30/01/2008.

4. The present complaint is regarding the non-compliance of the orders of this Commission passed in the same complaint No. 55/2007 dated 30/01/2008.

5. Notices were issued to both the parties and the reply of Opponent was taken on record which was also given to the Complainant. At para No. 14 of his reply dated 28/03/2008, the Opponent stated that he has supplied the information on 5/2/2008 alongwith the enclosures. A copy of the enclosures and the information given to the Complainant are also placed before this Commission. We have perused these documents. The Opponent has mentioned that the allotments of the industrial plots is done by the GIDC under section 14 of the IDC Act, 1965 and that there is no separate policy or criteria besides that. The allotment of land upto an area 10,000 sq. mts. is made at the level of the Managing Director and bigger areas are allotted by the Board of Directors. A list of conditions of allotment are also enclosed which have to be followed by the allottees. In our view, this meets the requirements of our order, though the Complainant has started fresh grievance by the present complaint that the reasons of allotment of this land by the GIDC to the parks/SEZ was not given by the IDC. As we have already mentioned such reasons cannot be gone into by this Commission as the scope of the RTI Act is quite limited. Getting into propriety or correctness of the reasons of taking a particular decision by a public authority will amount to adjudication of the various rights and liabilities of the public authorities vis-à-vis rights of a citizen. This Commission is not empowered with such "adjudicating powers".

6. The Opponent has furnished a copy of the communication received from Goa Government in the matter of allotment of land to the food parks/

SEZ. No doubt this is a note initiated by the Managing Director of IDC himself and cannot be interpreted to mean as a Government direction to allot land to either to a park or a SEZ. Consequently, there is no mention in the note about any policy direction except to constitute a committee. However, the Opponent has clarified that this is all they have by way of Government directives while they have mentioned in the note to the Board of Directors regarding the allotment of land to the SEZ which was obtained by the Complainant earlier. Finally, the third direction of this Commission is regarding the supply of the Gazette notification for acquisition of land by the GIDC. The notification has been now given by the Opponent.

7. The next questions No. 4 and 5 of the original application dated 23<sup>rd</sup> July, 2007 by the Complainant are about the diversion of the land acquired for industrial estate for setting up the township right in the middle of the Verna industrial estate at Phase IV of industrial estate. Here again, the questions are in the nature of asking for the reasons for such an action by the GIDC. As we have already mentioned earlier this is not clearly permissible under the RTI Act as upheld by the High Court of Bombay. With the result, we hold that our earlier two orders are complied with by the Opponent.

8. As a result of the above discussion, the complaint dated 15/2/2008 filed by the Complainant is dismissed as having no merit.

Pronounced in the open court on this 17<sup>th</sup> day of April, 2008.

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

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