

## **GOA INFORMATION COMMISSION**

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

Complaint No. 84/2007-08/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 G. G. Kambli)

Dated: 25/04/2008.

Complainant present in person.

Adv. K. L. Bhagat for the Opponent.

### **ORDER**

This will dispose off the complaint dated 14/3/2008 filed by the Complainant against the Opponent under section 18 of the Right to Information Act, 2005 (for short the Act). The grievance of the Complainant is that the Opponent has not complied with the order dated 18/02/2008 passed by this Commission in Appeal No. 115/2007-08. The Commission by its order dated 18/02/2008 passed in Appeal No. 115/2007-08 had directed the Opponent to provide the information sought by the Complainant vide his application dated 26/09/2007 to the Complainant within 15 days from the date of the order. As the Opponent failed to comply with the direction of this Commission, the present complaint has been filed by the Complainant praying inter alia that the Opponent be directed to comply with the order of this Commission, to impose a penalty against the Opponent and to initiate disciplinary action as per section 20(2) of the Act.

2. The Opponent filed his affidavit in reply stating that the Police Department is intending to challenge the order of this Commission by filing the Writ Petition before the Hon'ble High Court of Bombay. According to the Opponent, if the

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information is furnished to the Complainant in compliance with the order of this Commission it would be a precedent for the culprits in other crimes which are under investigation in the various other Police Stations. The Opponent has further contended that in case the information is disclosed during the course of the investigation, "the culprits would certain temper with the evidence and interfere and intimidate the witnesses in order to avoid the charge, and therefore it would be difficult for the Investigation Officer to conduct proper investigation in order to charge sheet the real culprit as Accused".

3. When the matter was came up for hearing before this Commission on this complaint on 4/4/2008, the Opponent was directed to file the steps taken by the Opponent either to implement the order of this Commission or to file Writ Petition from the date of the order of the Commission till date and the matter was fixed for hearing on 14/04/2008. The Government declared 14/04/2008 as a Public Holiday and therefore, the matter was taken up on 15/04/2008, Shri. K. L. Bhagat, learned Government Counsel appeared on behalf of the Opponent. However, he submitted that he has no details and he did not receive any further instructions from the Opponent. Hence, the matter was posted for order.

4. This Commission while passing an order dated 18/2/2008 has already considered the contentions raised by the Opponent in the affidavit in reply. The Opponent has not filed the detailed steps taken by him to file the Writ Petition before the Hon'ble High Court against the order dated 18/2/2008 of this Commission. As can be seen from the affidavit in reply filed by the Opponent, the Opponent has treated the Complainant as a "culprit" as if the Complainant is an accused. It is not understood as to how the investigation would impede if the information is disclosed to the Complainant who is very much interested in the investigation of his case. The Complainant and accused cannot be placed on the same footing. We can understand that if the information is provided to the accused, it may impede the investigation. The Opponent has failed to explain as to how the disclosure of the information to the Complainant would impede the investigation. We are, therefore, not inclined to agree with the contention of the Opponent. The order was passed on 18/02/2008. Even though 66 days are completed from the passing of the order, so far no Writ Petition has been filed as the Opponent has not produced any copy of the Writ Petition nor Government decision.

5. The Opponent has neither filed the Writ Petition before the Hon'ble High Court of Bombay nor submitted the details of the steps taken to file such a Writ Petition before the Hon'ble High Court. It is crystal clear that the Opponent deliberately and with malafide motives has not complied with the order of this Commission. We have also made it clear in the common order dated 17/01/2008 passed in Appeals No. 86, 87 and 90/2007-08 that the Opponent has deliberately withholding the disclosure of the information inasmuch as the Complainant made certain allegations against the police officials and R.T.O. officials. We, therefore, hold that the Opponent has not acted diligently and deliberately and with malafide intention delayed the disclosure of the information to the Complainant inspite of the order dated 18/2/2008 of this Commission.

6. We have, therefore, no hesitation to impose the penalty on the Opponent. There has been a delay of 51 days as on today on expiry of the 15 days time given to the Opponent which the Opponent has not justified. We, therefore, impose the penalty of Rs.250/- per day delay for 51 days on the Opponent which comes to Rs.12,750/- which should be recovered in 3 equal installments from the salary of June, July and August, 2008. We direct the Jt. Director of Accounts, Margao to deduct the penalty of Rs.12,750/- in equal monthly installments from the salary of Shri. Shekhar Prabhu Dessai, Supdt. of Police South Goa, Margao for the months of June, July and August, 2008 and submit the compliance report in the first week of August, 2008.

Announced in the open court on this 25<sup>th</sup> day of April, 2008.

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

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