

GOA STATE INFORMATION COMMISSION

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

Complaint No. 10/2006/MMC/

Ankush Sitaram Naik
H. No. 175/5,
Feira Alta, Mapusa - Goa.

..... Complainant.

V/s.

1. Public Information Officer,
Mapusa Municipal Council,
Mapusa - Goa.

..... Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated: 28/09/2006.

Complainant in person.

Adv. D. B. Dabholkar for opponent.

NOTICE - CUM - O R D E R

The complainant addressed a complaint to the Central Chief Commissioner, New Delhi against the Public Information Officer of Mapusa Municipal Council. The facts are that the complainant has approached the Mapusa Municipal Council, opponent, on 31/1/2006 asking for information on 7 points. He has also approached the Electricity Department on 30/11/2005 for certain information. Vide letter dated 3/2/2006 and letter dated illegible, the Mapusa Municipal Council and the Electricity Department, Executive Engineer, Div. VI, Mapusa respectively have informed the complainant that the files are not traceable and hence no information could be given. Earlier, the complainant has approached the Director of Municipal Administration on 30/11/2005 regarding the same matter who has informed him on 19/01/2006 to approach Chief Officer, Mapusa Municipal Council. Accordingly, the complainant has approached the opponent on 31/01/2006. The complainant also approached the Directorate of Municipal Administration by his application dated 18/7/2006. However, the outcome of this application is not known. It is not known whether

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he has approached the Chief Electrical engineer regarding the denial of information by the Executive Engineer, Div II, Electricity Department, Mapusa. He, thereafter, approached the Central Information Commissioner on 20/2/2006 who has forwarded all the papers to this Commission. He has also separately made another complaint dated 3/7/2006 to this Commission on the same subject.

2. The opponent, namely, PIO, Mapusa Municipal Council was represented by Adv. D. B. Dabholkar. The Learned Advocate was directed on 5/9/2006 to file a written reply to the complaint. As the matter involves a search of old records, the long date for hearing was given from 4/8/2006 to 5/9/2006 and which was again adjourned to 22/9/2006. On that date also neither the Advocate produced the records of the information requested by the complainant nor did he file any reply in writing.

3. It is very clear that the Mapusa Municipal Council has not taken sufficient pains either to search for the records or to file any written statement before the Commission. This attitude by the opponent is highly objectionable. Though the information might be old, it is not impossible to reconstruct the data from various other records available with the Mapusa Municipal Council like the collection of taxes or collection of rents or Municipal resolutions. It is not possible to believe that all the records are misplaced and are not traceable. In any case, the efforts made by the Mapusa Municipal Council inspite of the directions by this Commission, to trace the documents/information or reconstruct files is not placed on record inspite of the sufficient time given by the Commission. The efforts made by the opponent ought to have been placed before the Commission to prove the bonafide's of the opponent. The fact that the opponent has not filed any reply about the steps and efforts made by them to trace or reconstruct the file clearly indicate that the opponent is not interested in providing the information to the complainant. The Commission, therefore, takes adverse view that the opponent is deliberately and intentionally withholding the disclosures of the information on the ground that the concerned file is not traceable.

4. We have, therefore, no other alternative but to direct the opponent to furnish the information within 15 days from the date of the receipt of the order either by tracing the relevant file or by reconstructing the file based on the

available records with the opponent and submit the compliance to this Commission within 3 weeks from the date of this order, failing which the Commission will presume that the opponent is deliberately and intentionally and with malafide motive withholding the disclosure of the information and therefore, the Commission will be constrained to invoke the provisions of Section 20 of the RTI Act for imposing the penalty on the opponent in accordance with the provisions of the RTI Act.

5. Regarding the complaint against the Electricity Department, no notice has been given by the Commission and also the complainant has not approached the First Appellate Authority i.e. Chief Electrical Engineer. The complainant, therefore, should first approach the Chief Electrical Engineer who is the first Appellate Authority under the RTI Act against the rejection of the information by the Executive Engineer. Next date of hearing is fixed on 23/10/2006 at 11.00 a.m.

Pronounced in open Court, on this 28th September, 2006.

(A. Venkataratnam)
State Chief Information Commissioner, GOA.

(G.G. Kambli)
State Information Commissioner, GOA.