

GOA STATE INFORMATION COMMISSION

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

Complaint No. 18/2006

Dattaram T. Nayak
Jai Damodar Association,
C/o G. P. Raikar, Galaxy building,
Aquem, Margao - Goa.

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Complainant.

V/s.

Public Information Officer,
Goa State Agricultural Marketing Board,
Margao - Goa.

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Opponent.

CORAM :

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

(Per A. Venkataratnam)

Dated : 21/09/2006.

Complainant in person. The opponent was represented by an Advocate at the time of arguments.

ORDER

This disposes off a complaint dated 6/3/2006 to the Information Commission at New Delhi against the opponent for not furnishing certain information requested by him in 3 separate letters namely Ref. No. 100 dated 13/10/2005 containing 7 questions, Ref. No. 102 dated 13/10/2005 consisting of 12 questions and Ref. No. 103 dated 17/10/2005 containing 4 questions. The PIO replied to the complainant on 25/4/2006. Not satisfied with the reply, he has written once again on 21/8/2006 for further clarification. The clarifications are given by the PIO subsequently.

2. The original complaint, which was addressed to the Central Information Commission, was forwarded to this Commission after its constitution. The notices were issued to both complainant and the opponent and a final hearing took place on 12/9/2006. In spite of clear directive to the opponent, no written statement was filed before us. On the day of hearing, the Learned Advocate for the opponent submitted that whatever information was available with them was

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given to the opponent and further clarified by his second letter dated 21/08/2006 & that still, if the complainant wants any more information, they are willing to supply the same.

3. Joining arguments, the complainant had said that the replies furnished by the opponent are not satisfactory, misleading and incomplete. He has also commented on the delay in giving replies to his request for information. He wants the Commission to impose penalty of Rs.250/- per day delay on the opponent.

4. We have taken some time to examine the request of the complainant and the final reply given by the opponent pointwise where there were disagreements and our observations on each point are as follows: -

Letter No. 100 dated 13/10/2005

The complainant stated that the replies to Questions 2, 3, 6 and 7 are incorrect.

By question 2, details of the expiry dates of leave and licence agreement entered into by the opponent with lessees in the Marketing Yard at Margao was asked. These details initially were not given but subsequently were given.

By question 3, the types of activities carried out in lessees' shops was asked. The opponent has given the details of business for which shops were allotted to lessees. However, the complainant submitted that in a number of cases, the shopkeepers have deviated from the original contracted business and started some other activities. The opponent stated that there could be some unauthorized activities within the premises allotted to the lessees and they will take action against them. We are of the opinion that this will meet requirements of the RTI Act. The opponent, however, wants us to initiate action against the opponent and compel him to take action against such unauthorized activities. We are of the view that the scope under the RTI Act for the Commission to intervene in such matters is very limited. For instance, we can only ensure that correct information is given to the citizens without holding back any relevant information. However, we are not empowered to compel the Public Authorities to take any particular action one-way or other regarding their other statutory responsibilities. Similarly, the complainant has got the grievance with the replies

given to him for question nos. 6 and 7 by his letter No. 100 dated 13/10/2005. Here again the opponent has specifically given the reply to the questions of the complainant. The provisions under the Maharashtra Agricultural Produce Marketing (Regulations) Act, 1963 under which the Marketing Board has allotted the land/shops to the Government offices and to the Goa Bagayatdar Society, (a Co-operative Society) was mentioned in their reply. They have further stated that the Marketing Board has approved the allotments. As such we find that the opponent neither withheld any information nor mislead complainant in any manner as far as his letter No. 100 is concerned.

Letter No. 102 dated 13/10/2005: -

5. The complainant has got a grievance that opponent has furnished him incorrect and misleading information with regards to Q. No. 2, 6 and 11 posed by the complainant to the opponent. These questions are related to the grant of premises to a Co-operative Society, the amounts recoverable from the lessees which was Rs.82,070/- as on the date of their reply. The opponent stated that the Marketing Board has powers to allot its land to any party without agreement and that the alterations to the premises allotted to Goa Bagayatdar Society for the business of notified commodities at Margao were carried out with the permission of the Board. We do not see any incomplete, inconsistent or misleading information for the above 3 points. It so happens that complainant is nursing a grievance against the opponent that the latter is taking action against its lessees for unauthorized activities selectively and not fairly in all cases. This is a matter, which is to be agitated by the complainant before an appropriate forum. We are afraid that this Commission has no jurisdiction to redress the grievance of the complainant in such matters.

Letter No. 103 dated 17/10/2005: -

6. The complainant has a grievance in respect of questions No. 1, 2 and 3 posed by him to the opponent. These deal with the plan submitted by the Goa Bagayatdar Society to the opponent and which was given to the complainant now is not legible and that the changes have been made without permission of the P.W.D. and other authorities. The contention of opponent is that the Godown bearing No. 13 to 17 were separate shops at the time of allotment to Goa Bagayatdar Society, a Co-operative Society. On a request by the allottee, the opponent did permit the changes as per plans submitted by them. As the

original plans are with Town and Country Planning Department in the form of tracing paper, and as they have only blue prints with them, they have given photocopies of the blue prints to the complainant on the latter's request. The photocopies, therefore, may not be clear. This is the reason why they have replied to the complainant to obtain copies from the Town and Country Planning Department. As far as they are concerned, they have done their best. As the permission to make alterations has already given by the Marketing Board, there is no illegality committed by them. If they have to obtain permissions from the other Public Authorities, it is for the lessees to do so and the opponent is not having any approved plans with them, which is informed to the complainant. We accept the submissions made by the opponent and are of the opinion that there is no basis for the complainant's charge of giving false or incomplete or misleading information to the complainant by the opponent.

7. We will now dispose the prayer for imposing of penalty under Section 20 of the RTI Act on the opponent for delayed/misleading information. We have dealt with the charge of the complainant regarding the incomplete/misleading information and found no basis for the charge. As regards the delay in giving reply, the opponent submitted that initially there was a delay in designating the PIO under the RTI Act and thereafter there was some more delay in the publication of rules by the Government for collection of fees and cost of documents. This was done by the appropriate Government in February, 2006. This was already informed to the complainant in December, 2005. No sooner rules are published, the opponent has informed the complainant to collect whatever the information was requested. Further to the queries raised by him, the opponent has clarified all the points to our satisfaction. We, therefore, do not find any reason to initiate the penalty proceedings against the opponent. We, therefore, reject the complaint.

Pronounced in open Court on 21/09/2006.

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

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

