

The Goa State Information Commission

Complaint No. 1/2006/Inf/A

1. Amar B. Naik Complainant.
- V/s.
1. Government of Goa
Represented by the Chief
Secretary to Government
(Information & Publicity Dept).
Govt. of Goa Respondent 1.
2. The Director & Ex-Officio Joint
Secretary of Goa, (Information &
Publicity) Dept. of Goa Respondent 2.

**CORAM : A. Venkataratnam, SCIC
G. G. Kambli, SIC**

(Per G.G. Kambli)

Dated : 23/08/2006.

INTERIM ORDER

The Commission by its order dated 26/6/2006 passed in the above complaint had directed the Respondent No. 2 to prepare the list of PIOs, APIOs and First Appellate Authorities designated by the Public authorities in alphabetical order starting from Government Department, Government Undertakings, Autonomous Bodies, Semi-Government organization, City Corporation of Panjim, Municipal Councils, Panchayats, Educational Institutions etc. and notify the same in the Official Gazette in the following Performa within a period of one month from the date of the receipt of this order or by 30th July, 2006 whichever earlier.

Sl. No.	Name of the Public Authority	Names & designation of APIO's with Jurisdiction	Names & designation of PIO's with Jurisdiction	Names & designation of the First Appellate authorities	Series No. & Date of Publication in the Official Gazette in which Notification has been published.

The Commission has also directed the Respondent No. 2 to submit the list of public authorities, which have designated and displayed APIOs, PIOs and first Appellate Authorities within the statutory period and list of those authorities, which have designated and displayed the list of APIOs, PIOs and first Appellate

Authorities after the expiry of statutory period. The Respondent No. 2 was also directed to furnish the list of public authorities, which have not yet designated these officers. Further, the Respondent No. 2 was also asked to furnish the list of the public authorities, which have displayed the detailed information as required by Section 4(1)(b) of the Right to Information Act, 2005 (hereinafter referred to as "the Act") within the statutory period, after the statutory period and the authorities, which have not compiled the information. The Respondent No. 2 was directed to submit these information on or before 15/7/2006.

2. In pursuance of the said order of the Commission, the Respondent No. 2 submitted the list of public authorities, which have designated the APIOs, PIOs and first Appellate Authorities within the statutory period, the list of public authorities, which have not yet done so of APIOs, PIOs, and first Appellate Authorities. The Respondent No. 2 also submitted the list of public authorities who have displayed the detailed information as required by Section 4(1)(b) of the Act and also the list of public authorities which have not yet compiled the information.

3. On going through the list of APIOs, PIOs and first Appellate Authorities compiled by the Respondent No. 2, the attention of the Respondent No. 2 was drawn that the said list contains a number of mistakes which need to be corrected before the same is sent for publication in the Official Gazette. For instance, the Dean of Goa Dental College and Hospital was shown as a first Appellate Authority of Goa College of Architecture, Goa College of Art, Goa College of Pharmacy, Government Polytechnic, Panaji, Government Polytechnic, Mayem, Government Polytechnic, Curchorem, Agnelo Polytechnic, Verna and Institute of Ship Building Technology, Vasco-da-Gama. The Respondent No. 2 was directed to make the corrections wherever necessary before the publication of said information in the Official Gazette. The Respondent No. 2, thereafter, submitted the copy of the notification dated 27/7/2006 containing the list of APIOs, PIOs and first Appellate Authorities and also informed that the said notification has been sent to the Government Printing Press for publication. The said notification has been published in the Official Gazette Series II No. 17 dated 27/7/2006. On going through the said notification published in the Official Gazette, we have noticed that it contains a number of mistakes, repetition of public authorities, misleading information etc. We would like to point out the following few instances of such wrong information: -

Sr. No.	Name of public authority	PIO	APIO	First Appellate Authority
43	General Administration Department	Law Department State Registrar-cum-Head of Notary Services	District Registrar (North), District Registrar (South)	Joint Secretary (GA)
	Law Department	District Registrar (North)		
95	Law Department	State Registrar-cum-Head of Notary Services	District Registrar (North), District Registrar (South)	Joint Secretary (GA)
141	Office of State Registrar-cum-Head of Notary Services	State Registrar-cum-Head of Notary Services	District Registrar (North), District Registrar (South)	State Registrar

4. Thus, it will be seen from the above that the information pertaining to the State Registrar-cum-Head of Notary Services have been published at 4 places and at Sr. No. 141 State Registrar is shown as first Appellate Authority whereas at Sr. No. 43 and 95, Joint Secretary (GA) is shown as a first Appellate Authority. It is also pertaining to note that at Sr. No. 141 Public Information Officer and first Appellate Authority is the same, which is contrary to the provisions of the Act.

5. Similarly, in respect of Zilla Panchayat, the following information has been published: -

Sr. No.	Name of public authority	PIO	APIO	First Appellate Authority
119	Directorate of Panchayat	Chief Executive Officer, North Goa Zilla Panchayat. Chief Executive Officer, South Goa Zilla Panchayat.	Accounts Officer, North Goa Zilla Panchayat. Accounts Officer, South Goa Zilla Panchayat	Director of Panchayat
139	Office of the North Goa Zilla Panchayat	Chief Accounts Officer	Accountant	Chief Executive Officer (North)
140	Office of the South Goa Zilla Panchayat	Chief Accounts Officer	Accountant	Chief Executive Officer (South)

6. From the above, it is seen that at one place, the Director of Panchayats has been shown as the first Appellate Authority in respect of the Zilla Panchayats whereas at Sr. No. 139 and 140 Chief Executive Officer of the concerned Zilla Panchayat are shown as the first Appellate Authority. This will also confuse the citizen seeking the information since there are 2 different appellate authorities in respect of the same public authorities.

7. It is also interesting to note that in respect of Goa Public Service Commission at Sr. No. 154, Secretary, Goa Public Service Commission is shown as a Public Information Officer and Under Secretary (I) is shown as first Appellate Authority. By no stretch of imagination an Under Secretary can be the Appellate Authority of the Secretary. Either Respondent No. 2 has made a mistake while compiling the information or the Goa Public Service Commission has not complied with the provisions of Section 19(1) of the Act because an Under Secretary cannot be said to be senior in rank to that of Secretary.

8. We have also noticed that in many cases, the Public Information Officers and first Appellate Authority are of the same rank. For instance, the Joint Secretary, Mines and Joint Secretary, Housing are the Public Information Officers whereas Joint Secretary (GA) is their Appellate Authority. There are number of repetitions such as Government Polytechnic of Panaji, Mayem, Curchorem, Agnelo Polytechnic and Institute of Ship Buildings which are shown at Sr. No. 51, 52, 53, 54, 55, 56 and again repeated at Sr. No. 133. The Goa University is also shown at Sr. No. 77 and at 166.

9. We have also observed that in many cases Public Information Officers and Assistant Public Information Officers are of the same rank. Many public authorities have also designated more than one Public Information Officers and Assistant Public Information Officers without specifying their jurisdiction. If more than one Public Information Officers and Assistant Public Information Officers are designated, it is necessity that the jurisdiction of each Public Information Officer and Assistant Public Information Officers has to be clearly specified.

10. We have also observed that in respect of many public authorities, particularly those of autonomous bodies like Panchayats, Municipal Councils, aided colleges etc. It is the public authorities, which has to designate Assistant Public Information Officer and Public Information Officer and appoint first Appellate Authority. The Assistant Public Information Officer, Public Information Officer and first Appellate Authority should be within the organization i.e. within the public authorities. Since, the Panchayat and Municipal Council are public authorities, Public Information Officer and first Appellate Authority should be within these authorities. Therefore, it is necessary to re-examine the appointment of Public Information Officers and first Appellate Authorities in respect of these organizations. Section 5(1) of the Act clearly contemplates that every public authority shall within 100 days of the enactment of the Act, designate

as many officers as Public Information Officers. Similarly, sub-section (2) of Section 5 of the Act also empowers the public authority to designate Assistant Public Information Officers, at Sub Divisional levels or Sub-District levels. These powers are conferred on the public authorities and not with the appropriate Government. Further, one public authority cannot designate or appoint first Appellate Authority of another public authority. Therefore, care has to be taken that senior officer than that of the Public Information Officers is to be appointed as first Appellate Authority. We have also noticed that in some cases the designations of the officers are not given e.g. in respect of Goa Medical College at Sr. No. 45 only the name of Public Information Officers and Assistant Public Information Officers are given. Their designations are not specified. It is also noted that in respect of the Goa Medical College, one Dr. Ian Pereira, I/O Pharmacy College has been shown as Assistant Public Information Officer. It is not understood as to how an officer from Pharmacy College can be the Assistant Public Information Officer for the Goa Medical College.

11. We have pointed out only a few instances. There are bound to be many more cases where corrections are required to be done. The Respondent No.2 has not taken any pains and due care and has casually published the information containing many number of mistakes and self-contradictions. This may result to the number of complaints from the citizens and therefore, it is necessary to correct all the mistakes and re-publish the information. We would like to observe that the Respondent No. 2 has not compiled the information as per the proforma prescribed in the order by this Commission. Therefore, the information needs to be published in the said proforma so that the citizen can also refer the concerned Official Gazette in which the appointment of officers are published. By the said order dated 26/6/2006, the Respondent No.2 was also directed to prepare the list of the public authorities in alphabetical order starting from the Government Departments, Government Undertakings, autonomous bodies, Semi-Government Organization. However, we noticed that the Respondent No. 2 has included aided Government Colleges, Goa University, Agnelo Polytechnic, Verna and Institute of Ship Building Technology, Vasco-da-Gama in the list of the Government Departments. We had already noted in our earlier order dated 26/06/06, the contradicting statements made by the Respondent No. 2 by swearing an affidavit. Even then, he did not take sufficient care to comply with the order in compiling the information.

12. The Respondent No. 2 has furnished the list of the public authorities, which have not yet designated and or appointed Assistant Public Information Officer, Public Information Officer and first Appellate Authority. The said list is at Annexure 1 to this order. The list designating the Assistant Public Information Officer, Public Information Officer and first Appellate Authorities as well as the list furnished by the Respondent No. 2 of the public authorities which have not yet designated Assistant Public Information Offices, Public Information Officers and first Appellate Authorities do not contain aided educational institutions such as High Schools, Higher Secondary Schools etc.

13. The Respondent No. 2 was directed to furnish a copy of the Gazette to the Complainant. On the last date of hearing i.e. 17/8/2006 the complainant made the grievances that the Respondent No.2 has not complied with the order dated 31/7/2006 of this Commission. As the copy of the Gazette was not sent to the Complainant, the Complainant expressed his inability to file his say. The Assistant Public Information Officer who was present on behalf of the Respondent No. 2, gave copy of the Gazette to the Complainant only on 17/08/06, the last hearing.

14. In terms of the provisions of the sub-section (3) of Section 1 of the Act, the provisions of sub-section (1) of Section 4 and sub-section (1) and (2) of Section 5 came into force at once i.e. the date on 15/6/2005, the date on which the President of India assented the Act. As per the provisions of clause (b) sub-section (1) of Section 4 of the Act, every public authority was required to publish within 120 days from the date of the enactment of the Act various particulars of the Departments. The time limit provided in this Section 4 (1) of the Act expired on 13th October, 2005. Thus, all the public authorities were required to comply with the provisions of the aforesaid Section by 13th October, 2005. Further, as per the provisions of sub-section (1) and sub-section (2) of Section 5 of the Act, every public authority was required to designate PIO and APIO within 100 days from the date of the enactment of the Act i.e. on or before 23rd September, 2005. The provisions of Section 4 (1) sub-section (1) and (2) of Section 5 are mandatory in nature and therefore, all the public authorities were required to comply with these statutory provisions. However, we have observed that many public authorities have not yet complied with the provisions of sub-section (1) of Section 4 and sub-section (1) and (2) of Section 5 of the Act even though more than 1 year and 2 months have passed from the enactment of the Act. We have observed that the Respondent No. 2 is not taking any interest in ensuring the

implementation of the mandatory provisions and also cannot exercise effective control over the public authorities. We therefore, feel that the monitoring at the higher level is necessary so that the mandatory provisions of the Act are complied with. We have also observed that even where the public authorities have designated the officers as APIOs, PIOs and first Appellate Authority, the Respondent No. 2 has committed number of errors in compiling the information of such officers. Therefore, we feel that the higher authorities should take the initiative and ensure the implementation of mandatory provisions of the Act by the public authorities within time limit specified in this order and submit the compliance report to the Commission as well as to the Respondent No. 2 to compile and published the information for information of the citizens.

15. As pointed out in the preceding paras, the Respondent No. 2 has miserably failed to compile and published the correct information of the APIOs, PIOs and first Appellate Authority. The Respondent No.2 has also failed to ensure the compliance of the mandatory provisions of Section 4 (1) and Section 5 (1) (2) of the act. The Chief Secretary should monitor and ensure the compliance of the mandatory statutory provisions within time limit specified in this order.

16. From the above discussion, it is very clear that the Respondent No.2 has not complied with our earlier order dated 26/6/06. We are doubtful whether the Respondent No. 2 has read the order of the Commission as otherwise such a large number of mistakes could not have been committed. The Respondent No. 2 has taken the matter very lightly and casually and published the information in the Official Gazette without proper verification and corrections. We also do not know whether the earlier Affidavit filed by the Respondent No. 2 reflects the stand of the Respondent No. 1 which is Government of Goa. The directions given by order dated 26/6/06 are about the compilation/consolidation of the list of the public authorities, PIOs, APIOs and first Appellate Authorities. In fact, it is a directory of the authorities under the RTI Act. We therefore issue the following directions under sub-section (8) of Section 19 and Section 18 (3)(c) of the RTI Act.

1. The public authorities which have not yet designated APIOs, PIOs and not yet appointed first Appellate Authority shall do so within 2 weeks from the date of the receipt of this order and send the copies of the notification to Respondent No. 2.

2. The Respondent No. 2 shall get the information verified as already published in the Official Gazette and make the corrections wherever necessary within 2 weeks and re-notify the information in the form of a booklet.
3. The public authorities which are not yet compiled or displayed the details as required by Section 4 (1)(b) of the Act shall do so within a month and send the copy of the compliance to the Respondent No. 2.
4. Wherever more than one PIO and APIO are appointed, their jurisdiction be clearly specified within 2 weeks from the date of the receipt of this order.
5. Wherever the Junior Officer or Officer with equivalent rank are appointed as first Appellate Authority in their places Senior Officer be appointed as first Appellate Authority.
6. The Respondent No. 2 should ensure that the directory in a comprehensive booklet form consisting of two parts namely the first part regarding the APIOs/PIOs/Appellate Authority and second part 17 points manuals published by the public authorities with a proper table of contents with page numbers.
7. The Respondent No. 2 shall send the copy of this order to all the public authorities for compliance. The Respondent No. 2 to file an action taken report in the form of affidavit on 29/9/06 at 11.00 a.m.

A copy of this order may also be sent to the Chief Secretary/Secretary (Information and Publicity), Secretariat, Porvorim for information and appropriate action.

Inform the Complainant also.

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

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

23/08/2006.

