

**GOA STATE INFORMATION COMMISSION**  
Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Complaint No. 08/2006/POLICE

Mrs. Cleve Lopes Lobo,  
Maira, Bardez - Goa.

..... Complainant.

V/s.

1. The S. P. (North),  
Police Department, Porvorim &  
Public Information Officer.
2. The Dy. Inspector of General of  
Police - II, H.Q. Panaji.

..... Respondents.

**CORAM :**

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

(Per A. Venkataratnam)

Dated : 08/09/2006.

Complainant in person. Shri C. L. Patil, Police Inspector for both  
Respondent No. 1 and 2.

**ORDER**

This disposes off complaint dated 4/7/2006 of the complainant stating that she did not receive the information requested by her on 4/2/2006 under the Right to Information Act, 2005 from the PIO of Police Department. The brief facts of the case are as follows: -

2. That consequent on her request dated 4/4/2006 to the PIO, she was asked on 12/4/2006 to approach the APIO for the information. When the complainant filed an appeal on 24/4/2006 to the Respondent 2, the Appellate Authority (AA), S.P. (Headquarters), replied to the said appeal memo by the letter dated 28/4/2006 to approach the APIO and then PIO and thereafter the Appellate Authority. Finally, the complainant made an application to the APIO on 5/5/2006 for the information. On 19/5/2006, the APIO rejected the application under Section 8 of the RTI Act. No reasons were given for the rejection and it was not explained how the disclosure of the information is exempted under the Act. On 8/6/2006, the complainant preferred another appeal to the Appellate

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Authority who directed the complainant to approach the S.P. North who is the PIO. Finally, fed up with this game of hide and seek, the Appellant knocked at the doors of this Commission.

3. When the matter has come up for the hearing on the earlier occasion, the representative of the Police Department on behalf of the both the Respondents submitted that the information is already given to the complainant during the pendency of the hearing of the complaint. While admitting that the information was given partially, the complainant stated some more information is required to be given to her, as what is stated in the information given now is false and misleading. The complainant was, thereafter, asked to file a proper application as to what is required further to be given by the Police Department and how the information already given is incomplete and false. Consequently, one more application has been filed on 24/7/2006 alongwith one Affidavit by Mrs. Electra Veronica D. L. Rebello. Both the complaints are taken up for disposal now.

4. We had already made our observations in a similar case about the irregular procedure followed by the Police Department in dealing with applications under RTI Act and certain directions were given to the DGP to set right this trend. These are regarding wrong interpretation of the Act vis-à-vis the role and responsibility of the APIOs of the Police Department, more particularly, that they cannot refuse the information requested and that when a citizen approaches PIO, he should not be directed to the APIO. We reiterate the views once again and wait to see their observance in letter and spirit before we take a serious view to start penalty proceedings against the PIOs of the Police Department. The RTI Act envisages that the APIO should receive and forward the applications/appeals under the Act in order to facilitate the citizens not to travel to the Headquarters of the PIO. It does not build up a hierarchy of APIO/PIO/Appellate Authority. It is, therefore, patently wrong for the PIO to direct the citizen to approach the APIO. Accordingly, we set aside the letters dated 12/4/2006 of the PIO, the illegal order of the APIO dated 19/5/2006 rejecting the information, the misconceived order/letter of the Appellate Authority conveyed by the S.P. (Headquarters) on 28/4/2006 directing the complainant to approach the APIO. Similarly, we also set aside the letter dated 15/6/2006 of the DIG (II), Appellate Authority, directing the complainant to approach the PIO. The RTI Act states in no uncertain terms that if the information requested is not available

with the PIO of one Public Authority and is available with some other Department or some other PIO of the same Department, the request has to be forwarded to the PIO concerned within 5 days. This should be noted for further guidance by the Police Department. Similarly, the DIG (II) as an Appellate Authority is supposed to give an opportunity of hearing to the Appellant and pass a speaking order giving reasons in writing for allowing or rejecting the appeal. The present practice of disposing of the appeals like any other letter in a routine manner also needs to be stopped with immediate effect. We have taken a lenient view of all the above irregularities of the Department as arising out of ignorance and lack of training and lack of awareness of the provisions of the Act. We will not be in position to condone the ignorance any further as "Bliss" in future.

5. Coming to the main contention of the complainant, the request is about giving her copy of the report of the Police Department sent to the NHRC on her complaint made to NHRC regarding human rights violation by the Police against her. A copy of the report is already given to her after a notice is received from this Commission. This should have been enough to close the complaint with the above observations. However, the complainant has raised some other points by her subsequent letter dated 12/4/2006 saying that the Police has mislead the NHRC by wrongly mentioning therein that the complainant is involved in a civil case No.105/2001/JR and the matter is sub-judice. In support of this, she has submitted an Affidavit of the Petitioner of the civil case by the Plaintiff of the above case namely, Mrs. E. V. D. L. Rebello. It is clear from the Affidavit that the complainant or her husband are neither the plaintiffs nor defendants in the case quoted by the Police in their inquiry report submitted to the NHRC. However, during the course of the final arguments, the representative of Respondents 1 and 2 has submitted that he will give further information on how the case number was mentioned in their report and the information supporting their contention. He has also submitted that the report does not say that complainant or the husband were either the plaintiffs or defendants. Nevertheless, the PIO, namely, S. P. (North) is directed to provide further information to the complainant as to in what connection the case was cited in their report, with supporting documents, if any within 15 days from the date of receipt of this order.

6. We now come to the prayers of the complainant in her complaint dated 17/6/2006. The first prayer is about giving directions to the Police to provide the evidence to support to its own report submitted to NHRC. We have already given the directions as above to furnish to the complainant whatever evidence they have to quote the civil case in which the complainant was not involved in their report in order to give impression before NHRC that the matter is sub-judice. We hereby direct both the Respondent 1 to do so within a period of 15 days.

7. The complainant has also requested to start penalty proceedings against the Respondents for fabricating the report and misleading the NHRC. The Commission's role, in this regard, is limited to punish the PIO for the misconduct, deliberate suppression, or misleading or denial of information to the citizen. We are afraid, that we do not have the authority to punish the PIO for whatever misleading information he has given to some other authority. Hence, we are not able to grant this prayer.

8. The third prayer is about imposing the penalty on the Respondents for refusing access to information and wrongfully taking shelter under Section 8 of the RTI Act. As we have already observed there is sufficient force in this prayer because the complainant was harassed and sent from pillar to post in addition to wrongly rejecting her request by the APIO. However, we have also observed that this could be due to ignorance & is not wilful suppression of the information. Though, there is no written statement by the Police Department, we had already taken a generous view on the matter and set aside all the offending letters/orders. We are, therefore, not inclined to proceed further with the penalty proceedings under Section 20 of the Act. We dispose off the complaint in terms of the above observations/directions to the Police Department to be complied within 15 days from the date of the receipt of this order. All the parties to be informed.

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

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

