

## **GOA STATE INFORMATION COMMISSION**

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

Complaint No. 10/A/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: 31/10/2006.

Complainant in person.

Adv. D. B. Dabholkar for opponent.

### **ORDER**

In this case, an Order-cum-Notice was already issued on 28/9/2006 asking the opponent to furnish the information requested by the Complainant and to show cause why the penalty should not be imposed under Section 20 of the Right to Information Act. A time of 3 weeks was given to report compliance. Thereafter, on 23/10/2006, the learned Advocate for the opponent submitted that the opponent has written a letter to the Complainant to collect the information. However, the Complainant denied having received such letter. He did not show cause regarding the penalty. Thereafter, the case was adjourned for 31/10/2006 wherein Complainant was present in person and the Advocate also filed a reply. In the reply, he has submitted that the complaint should be dismissed, as the information is 25 years old and under provisions of Section 8 of the RTI Act, the disclosure is exempted, as it is personal information and also that the information requested has no relationship to any public interest. He has also submitted that the Complainant was called to collect the information sought by him.

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2. This is a very strange case where the reply was submitted after an order was already passed directing the opponent to furnish the information within 15 days and report compliance within 3 weeks from the date of the order. In fact, the opponent has reconstructed the records and has even called the Complainant to collect the information. So we do not understand what the opponent means now requesting this Commission to dismiss the complaint. It is also strange that the opponent is taking now a plea that information requested is of personal nature and is exempted from disclosure which is an after thought. Any such plea should have been taken before the order was passed on the complaint. Again this plea, though belated, is contrary to the pleas taken by the opponent earlier stating that the records are not available and hence the information could not be furnished to the Complainant. By the contrary stands, the opponent has only confirmed his intention to refuse the information and definitely did not discharge his burden of proving his bonafides in not supplying the information even after an order was passed by this Commission. This is further confirmed by the opponent's behaviour after he has reconstructed the files and invited the Complainant to collect the information.

3. The opponent by his letter No.ENGG/5464/2006 dated 16/10/2006 while calling the Complainant to collect the information, referred to the original request for the information dated 31/1/2006, this Commission's Notice-cum-Order dated 28/9/2006 and has also informed that the information was reconstructed from various other sources available with the Mapusa Municipal Council. The Commission held the view that the information could be reconstructed even if it is not readily traceable and refusing to do so on the plea of missing records is just to avoid the responsibility of supplying the information. For instance, it is the Commission, which has pointed in its order dated 28/9/2006 how the information could be reconstructed. The opponent has indeed reconstructed the data now after this Commission's order, which could have been done much earlier when the case was adjourned 3 times. In fact, this Commission has given very long adjournments only for this purpose. Further, the opponent did not take any pains either to search for the missing data or to reconstruct the files, or to file a reply mentioning the efforts put in. Even after sending request to opponent on 16/10/2006, the information was not given

to the Complainant till date of last hearing i.e. 31/10/2006. The Complainant submitted a letter on the day of the last hearing that he visited office of the opponent on 4 different occasions namely on 23/10/2006 at 11.30 hrs. and 13.30 hrs., and on 24/10/2006 at 16.30 hrs., on 27/10/2006 at 14.00 hrs. and finally on 30/10/2006. On 3 occasions, the Chief Officer was not available in his office. Considering that the Complainant visited the opponent's office a number of times, and considering that the information, which was ready, could have been handed over to the Complainant on payment of fees by any person other than the opponent, we are of the firm opinion that the opponent is highly irresponsible and went on refusing to give the information deliberately. This has to be very firmly curbed. Finally, when the Complainant could meet the opponent personally on 30/10/2006, even then the opponent had only promised to look into the matter after writing to him earlier that the information is ready. All these, show clearly that the opponent has denied the information with a malafide intention and caused a lot of inconvenience and mental agony to the Complainant.

4. The opponent has also taken the plea that he has joined the Municipal Council of Mapusa only on 18/9/2006. However, the order was passed on 28/9/2006 and there was ample time for him to reconstruct file and furnish information to the Complainant. Indeed, by his own admission, the information was ready on 16/10/2006. There is no justification for not giving this information so reconstructed, from that date till the date of last hearing. Therefore, the plea of the opponent that he joined the Mapusa Municipal Council only on 18/9/2006 is rejected as irrelevant.

5. In spite of the specific notice on 28/9/2006 and the recording in the Roznama, which was signed by the Advocate for the opponent, the opponent did not show cause why the penalty should not be imposed on him under Section 20 of the RTI Act. If such irresponsible behaviour of the opponent is not firmly dealt with, it will set a bad example for all the Public Information Officers in Goa. We have, therefore, no alternative except to impose a penalty of Rs.250/- per day from 16/10/2006 till the information is supplied. The amount has to be collected from the salary of Shri S. N. Kotwale, Chief Officer, Mapusa Municipal Council

in one instalment. Compliance should be reported by the drawing and disbursing officer of the salary of the opponent by 30<sup>th</sup> November, 2006. We also direct Mapusa Municipal Council to pay an amount of Rs.2000/- to the Complainant under Section 19(8)(b) of the RTI Act to compensate for the loss and other detriment suffered by him. The parties may be informed.

Shri A. Venkataratnam  
State Chief Information Commissioner

Shri G. G. Kambli  
State Information Commissioner