

# **GOA STATE INFORMATION COMMISSION**

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

Complaint No. 33/2006/TCP

Shri Ligorio Pereira  
H. No. 40, Acsona - Utorda,  
Majorda, Salcete - Goa.

..... Complainant.

V/s.

Public Information Officer,  
Senior Town Planner,  
Town and Country Planning Dept.,  
Margao - Goa.

..... Opponent.

## **CORAM :**

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

(Per G. G. Kambli)

Dated: 31/10/2006.

**Complaint under Section 18 read with Section 20 of the Right to  
Information Act, 2005.**

## **J U D G M E N T**

This disposes off a complaint dated 5/9/2006 of the Complainant filed under Section 18 read with Section 20 of the Right to Information Act, 2005 (for short the Act) against the opponent.

2. The case of the Complainant is that the Complainant approached the opponent vide application dated 13/7/2006 requesting the opponent to provide the information as to how the opponent had given the approval letter for the construction plan of M/s. Ramesh Hotels and Resorts Pvt. Ltd. showing access through the property belonging to the Complainant on the site plan inspite of having brought to the notice of the opponent through the legal notice dated 24/1/2006 by the Advocate of the Complaint requesting not to issue any approval.

...2/-

3. The Complainant alleges that since the Complainant did not receive any reply within a statutory period of 30 days as provided in the Act, the Complainant went to the office of the opponent on 24/8/2006 to inquire about his application dated 13/7/2006. The Complainant was informed that the opponent has already sent the letter dated 4/8/2006. The Complainant states that the so called letter dated 4/8/2006 was not received by the Complainant which alleged to be have been sent by ordinary post. The Complainant states that he saw the letter dated 4/8/2006 marked to the Complainant lying in the office records. The Complainant collected the copy of the said letter dated 4/8/2006 on 24/8/2006 and submitted another application dated 24/8/2006.

4. The Complainant further states that the information provided belatedly by the opponent vide reply dated 4/8/2006 was incorrect, irrelevant and wrong. The Complainant says that he did not receive any reply whatsoever from the opponent and therefore, the Complainant prayed that the opponent be directed to provide correct information and also prayed for action against the opponent under Section 20(2) of the Act for giving false, incorrect, irrelevant and wrong information deliberately to protect the wrong doings on the technical approval dated 5/7/2006 to M/s. Ramesh Hotels and Resorts Pvt. Ltd. for the personal gains of the opponent inspite of the notice issued by the lawyer of the Complainant not to issue the same.

5. The opponent filed reply. In the reply; the opponent stated that the Complainant sought the clarification on the matter of issue of N.O.C. from planning point of view for construction of hotel project at Survey No. 41/1, 2 and 3 of Utorda village and the clarification/information sought by the Complainant was issued vide letter dated 4/8/2006. The opponent, further, stated that entire file of M/s. Ramesh Hotels and Resorts Pvt. Ltd. was made available for inspection to the Complainant and plans, notings from the said file were also provided vide letter dated 10/8/2006 and 14/8/2006 and therefore, the opponent presumed that the clarification required by the Complainant was already furnished. The opponent has also further stated that the clarification sought by the Complainant vide letter dated 24/8/2006 was also issued vide letter dated 30/8/2006 and therefore, all the required information were supplied to the Complainant within the time period stipulated in the Act. The opponent has also raised the objection stating that the issue of clarification/explanation may not come under the purview of the Act.

6. On perusal of the application dated 13/7/2006, the Complainant sought the information from the opponent as to how the opponent has given the approval to the construction plans of M/s Ramesh Hotels and Resorts Pvt. Ltd. showing access on the site plan through the property of the Complainant inspite of prior legal notice. We fail to understand as to how the opponent has taken this application as seeking clarification/explanation. The opponent vide reply dated 4/8/2006 has informed Complainant that since the Complainant had inspected the entire file of M/s. Ramesh Hotels and Resorts Pvt. Ltd. under the Act, the information is treated as supplied.

7. The Complainant in his complaint dated 5/9/2006 has made certain allegations against the opponent stating that the reply dated 4/8/2006 was not issued to the Complainant but the same was lying in the office of the opponent which the Complainant collected the copy on 24/8/2006 when the Complainant visited the office of the opponent to inquire about the application. The opponent has not denied this allegation. The Complainant has also stated that he did not receive any reply even to his application dated 24/8/2006 whereas the opponent has stated that the reply was issued on 30/8/2006. The opponent has not produced any documents in support of the statement inasmuch as the Complainant has alleged in the complaint that the Complainant has not been provided any information in response to his application dated 13/7/2006 and 24/8/2006.

8. During the hearing, the Complainant submitted that the opponent did not issue the letter dated 4/8/2006 as the same was lying in the office of the opponent. The Complainant also submitted that the Complainant did not ask the inspection of file vide his application dated 13/7/2006 and therefore, the presumption drawn by the opponent that since the Complainant has inspected the file, the information is treated to be supplied is devoid of any substance. The Complainant also reiterated that the opponent is bound to provide the information sought by the Complainant under Act.

9. In fact, the opponent ought to have produced documentary evidence before this Commission to prove that the opponent sent the letter dated 4/8/2006 before the expiry of statutory period. The opponent has also failed to produce the copy of the letter dated 30/8/2006 and also the documentary

evidence to the effect that the said letter was sent to the Complainant. The opponent has failed to establish that the information sought by the Complainant is provided to the Complainant within the statutory period of 30 days. The Complainant has alleged that the opponent has deliberately given the false, incorrect, irrelevant and wrong information to protect the wrong doings of the opponent for the personal gains of the opponent inspite of the legal notice and therefore, the Complainant has prayed for imposing penalty on the opponent. The opponent has not filed any say on this allegation of the Complainant. We are, therefore, of the view that the opponent has deliberately and intentionally with malafide intention withhold the disclosure of the information sought by the Complainant and giving the reply that the information is supplied when such a information was not at all provided to the Complainant. We, therefore, feel that this is a fit case to invoke the provisions of Section 20 of the Act.

10. In these circumstances, the following order is passed:

### **ORDER**

The opponent is directed to provide the correct information to the Complainant within a week from the date of the receipt of this order. The opponent is also directed to show cause as to why the penalty of Rs.250/- per day delay should not be imposed as per the provisions of sub-section (1) of Section 20 of the Act, on 21/11/2006 at 11.00 a.m.

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

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