

GOA STATE INFORMATION COMMISSION

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

Complaint No. 39/2006/Dy. Col.

Mr. Donato Armando Lobo,
H. No. 105, Pirazona Moira,
Bardez - Goa. 403 514

..... Complainant.

V/s.

1. Public Information Officer,
Deputy Collector & S.D.O. Mapusa,
Mapusa - Goa.
2. First Appellate Authority,
Additional Collector - I (North),
Panaji - Goa.

..... Opponents.

CORAM :

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

(Per G. G. Kambli)

Dated: 18/01/2007.

Complainant in person.

Opponent No. 1 in person and Opponent No. 2 absent.

ORDER

This will dispose off the complaint dated 6/12/2006 filed by the Complainant against the opponents. The grievances of the Complainant is that when the Complainant went to present his application on 12/10/2006 under the Right to Information Act, 2005 (for short the Act), the Inward Clerk of the office of the opponent No. 1 insisted to affix a court fee of Rs.2/- on the application else the application will not be accepted. The other allegation of the Complainant is that the opponent No. 2 issued the notice dated 21/11/2006 asking him to show cause as to why fine of Rs.250/- should not be imposed on the Complainant from 11/11/2006 till the disposal of appeal.

2. The notices were issued to both the opponents. The opponent No. 2 remained absent. The opponent No. 1 filed the reply.

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3. The Complainant submits that the Rules framed under the Act do not provide for payment of court fees on the application but only the application fee and the cost of the documents. Similarly, the Complainant also submitted that the penalty is to be paid by the Public Information Officer and not by the citizens. The opponent No. 1 in his reply has denied of having asked the Complainant to affix court fees. The opponent No. 1 also submitted that the Complainant submitted the application on 12/10/2006 and also 12/11/2006 without payment of process fess. The Complainant has produced a copy of the application dated 12/10/2006 wherein the Complainant has clearly stated that he is enclosing Rs.10/- as application fee. The Complainant vide his complaint dated 2/11/2006 addressed to the opponent No. 1 had alleged that he was asked by the Inward Clerk to affix court fee of Rs.2/-. The Complainant also stated that he was ready to pay application fee of Rs.10/- which the Inward Clerk refused to accept and instead asked the Complainant to affix the court fee of Rs.2/- failing which the application will not be accepted. In the first appeal made to the opponent No. 2, the Complainant also made similar grievances. Though the opponent No. 1 has denied of having asked the Complainant to affix court fee of Rs.2/-, the opponent No. 1 has annexed a true copy of application dated 12/10/2006 of the Complainant alongwith reply where from it is clearly seen that court fee of Rs.2/- had been affixed to the said application. The opponent No. 1 has stated that the Complainant did not pay the process fee on his application dated 12/10/2006 and also the application dated 12/11/2006. The application dated 12/11/2006 is only a complaint to the opponent No. 2 and it is not understood as to why the Complainant was required to pay the process fee. The Act does not envisages the payment of process fee but only application fee. Therefore, it is not understood from where the opponent No. 1 has imported the process fee when the rules provide for payment of only application fee.

4. The Commission has come across some cases where the application fee are not accepted at the time of receiving the application seeking information even though the persons presenting the application offer to pay the fees and thereafter the plea is taken that the applicants have not paid the application fees. Besides, there are also some cases where the applicants are asked to pay the application fees through the challans in the banks.

5. Rule 3 of the Goa Right to Information (Regulation of fee and cost) Rules, 2006 (hereinafter referred to as the Rules) framed by the Government provide for the payment of fees by cash against proper receipt or by demand draft or bankers cheque. Thus, option of the mode of the payment is given to the applicant and not to the Public Information Officer. The Public Information Officer has to accept the fees if paid by one of the modes provided in the said Rule 3. The Public Information Officer has no power or authority to direct the applicant to make the payment other than the mode specified in the Rule 3 of the said Rules.

6. In the present case, the Complainant was asked to affix court fee of Rs.2/- on the application and Inward Clerk had refused to accept the application fee of Rs.10/- and insisted that the court fee must be affixed otherwise application will not be accepted. The Complainant has brought this fact to the notice of the opponent No. 1 as well as to the opponent No. 2. Therefore, the action on the part of the opponent No. 1 asking the applicants to affix court fee of Rs.2/- on the application is illegal and not justified. We also give directions to the opponent No. 1 to issue instructions to his staff members not to ask the applicants making applications under the Act to affix court fee on their applications.

7. As regards to the allegation made against the opponent No. 2, the opponent No. 2 has issued notice to the Complainant requesting Complainant to remain present for hearing and to justify why the fine of Rs.250/- per day delay should not be imposed from 11/11/2006 till the disposal of the appeal. The Act does not provide for payment of the fine by the applicant and the first Appellate Authority cannot impose any fine on the applicant seeking information. Section 20 of the Act empowers the Commission to impose penalty on the Public Information Officer. This powers are also not available to the first Appellate Authority. Therefore, the opponent No. 2 erred in directing the Complainant to justify as to why the fine of Rs.250/- per day delay should not be imposed on the Complainant. It may also be mentioned here that the first Appellate Authority even cannot impose the penalty on the Public Information Officer. Notice dated 21/11/2006 was addressed to the Appellant i.e. present Complainant and therefore, the Complainant is right in construing that said notice was also meant for the Appellant i.e. present Complainant.

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8. We have observed that in some cases, the Public Information Officer's do not accept the application fee at the time of the submission of the application by the applicants. Similarly, we have also observed that in some cases the applicants are asked to deposit the fee in the banks through challans. It is also observed that in some offices, the fee is accepted only during morning session. It is, therefore, necessary that the Government should issue necessary instructions to all the Public Information Officers and Public Authorities to accept the fees only in the mode provided in Rule 3 of the said Rules and during office hours as the Rules do not provide or fix any timings for the payment of the application fee or cost of the documents.

9. In view of the above, we allow the complaint. A copy of this order be sent to the Special Secretary (Information & Publicity) with a request to issue suitable instructions in the form of the circular to all the Public Information Officers and Public Authorities to accept the fees as per the mode specified in the Rules and during office hours.

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

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