

GOA INFORMATION COMMISSION

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

Complaint No. 66/2006/

Shri P.V. Desai
B2F10, Excel Residency,
Caranzalem - Goa

.....

Complainant

V/s.

Public Information Officer,
Shri D. N. Shetty,
Goa Antibiotics & Pharmaceuticals Ltd.,
Tuem, Pernem – Goa.

.....

Opponent.

CORAM:

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

(Per G.G. Kampli)

Dated: 05/07/2007.

Complainant in person.

Adv. K. L. Bhagat, for the Opponent.

O R D E R

The Commission in its order dated 9/5/2007 had directed the Opponent to trace the old records prior to 1996 pertaining to the payment of salary and allowances to the 3 employees and provide the same to the Complainant within 15 days from the date of receipt of the order and submit the compliance report. The Opponent was also directed to show-cause as to why the penalty proceeding should not be initiated and the penalty of Rs. 250/- per day delay should not be imposed on the Opponent in accordance with the provisions of the RTI Act, 2005(hereinafter referred to as the Act).

2. In pursuance of said order of the Commission, the Opponent has furnished the information to the Complainant vide letter dated 26/5/2007 a copy of which was endorsed to this Commission. The Opponent has also filed his detailed affidavit in reply to the show-cause notice. ...2/-

3. In his reply, the Opponent stated that the Complainant sought the information vide application dated 25/1/2007 which was kept ready and the Complainant was asked to contact the Opponent on 25/2/2007 between 3.00 to 5.00 p.m. The Complainant was also informed that he was required to deposit additional fees/other expenses, if any, prior to the collection of the information. The Complainant vide application dated 26/2/2007 requested the Opponent to inform the actual amount to be deposited, which was replied by the Opponent vide letter dated 5/3/2007 that the Complainant has to deposit additional fees towards postal charges without indicating the actual figures of the fees. The Complainant again wrote to the Opponent and requested the Opponent to inform him actual amount to be deposited within 5 days vide letter dated 16/3/2007 which was received by the Opponent on 20/3/2007 and the Opponent vide letter dated 21/3/2007 informed the Complainant that the Complainant has to deposit Rs. 58/-. The Opponent states that the said reply was given to the Complainant within 5 days from the date of receipt of the letter dated 16/3/2007 and therefore there was no occasion for the Complainant to file the complaint before this Commission. The Opponent also submitted that the Complainant did not appear before him inspite of the letters inorder to collect the information. As regard the observation of the Commission in para 3 of the order, the Opponent has clarified that the letter dated 21/3/2007 was sent to the Complainant by Reg. AD which was received by him on 23/3/2007 and in support thereof the Complainant has attached the Xerox copy of the AD. The Opponent also clarified that the said letter was sent prior to the receipt of the notice of this Commission. On perusal of the copy of the said letter which was sent to this Commission, the same was received in the Office of the Commission on 2/4/2007 and the notice of the Commission was issued on 26/3/2007 which made the Commission to believe that the said letter dated 21/3/2007 was issued after the receipt of the notices of the Commission. Now since the Opponent has produced the document that the letter was issued on 21/3/2007 and received by the Complainant on 23/3/2007, the observation made by the Commission in para 3 in this regard be ignored.

...3/-

4. The Opponent has also submitted that the Complainant has not come before this Commission with clean hands. The Complainant has not filed the appeal deliberately as the matter would have been settled at the level of the First Appellate Authority and therefore there was no need for the Complainant to approach this Commission by way of the Complaint.

5. It will be seen from the above that the Opponent did not indicate the actual amount to be deposited by the Complainant inspite of the repeated requests by the Complainant. The provision of clause (a) of sub-section (3) of section 7 of the Act is very clear. As per the said provision, the Publish Information Officer has to calculate the additional fees payable by the applicant, as per the prescribed Rules and inform the same to the applicant. The Opponent has failed to comply with these provisions inspite of the repeated requests by the Complainant. The Opponent was also insisting the personal appearance of the applicant. The Public Information Officer cannot insist the personal appearance of the applicant. The Public Information Officer has to either furnish the information or reject the request of the applicant for any of the reasons specified in sections 8 and 9 of the Act. The Commission in its order dated 10/4/2007 has directed the Opponent to provide the information to the Complainant on 16/4/2007 at 11.00 a.m. Panaji Office of the company by collecting Rs. 8/- from the Complainant. In spite of the direction of the Commission, the Opponent failed to provide the complete information and provided only part of the information sought by the Complainant. It is for the first time the Opponent in their reply dated 25/4/2007 stated that the records pertaining to the payment of salary and allowances in respect of 3 employees prior to 1996 were not traceable since the said records were maintained manually.

6. The case of the Opponent was that the Complainant did not collect the information inspite of their letters. If the complete information was kept ready by the Opponent, we fail to understand as to why the complete information was not provided to the Complainant even after the direction of the Commission. At no point of time, the Opponent has informed the Complainant that the records prior to 1996 were not traceable as per the records placed before this Commission. Therefore, it was not correct on the part of the Opponent to say that the information was kept ready but the Complainant did not collect the same.

...4/-

7. In the affidavit of the Opponent, the Opponent has again raised the issue regarding the format of the application and has also annexed the Xerox copies of the format of application for obtaining information. The Opponent has not cited any provisions of the Rules made by the Government of Goa under the Act prescribing such application form. The Commission has already decided the issues and therefore it was not proper on the part of the Opponent to raise the same issue without quoting the relevant provisions of Rule under which the format has been prescribed by the Government of Goa. The Commission has already decided the issue regarding the place where the information is to be collected in para 7 of its order and therefore there was no need to raise this issue again in the reply.

8. In Compliance with the order dated 9/5/2007, the Opponent has provided the details of salary/allowances for the financial years 1991 to 1996 paid to the 3 employees including that of the Complainant based on available records. Accordingly, the Opponent has also filed the compliance report on 7/6/2007.

9. The Complainant in his application dated 7/6/2007 filed before this Commission stated that he has moved another application dated 7/5/2007 seeking information month-wise but the Opponent has not provided the information month-wise. In the present case, we are concerned only with the application dated 25/1/2007 of the Complainant and therefore we cannot take the cognizance of the application dated 7/5/2007 of the Complainant.

10. We have observed that both the Complainant as well as the Opponent have addressed their correspondence to the State Information Commissioner by name. Even prior to the filing of the Complaint, copies of some of the letters were endorsed to the Commission by name, which is not proper on the part of the Complainant and the opponent. Hence the Complainant as well as the Opponent is directed not to send any copies of their letter/correspondence to the Commission. The Commission can take the cognizance of the matter only when the proper

Complaint under section 18 and the Appeal under section 19 (3) of the Act are filed before the Commission in accordance with the rules prescribed under the Act by the Government of Goa.

11. It will be seen from the above that there has been a delay on the part of the Opponent in providing the complete information to the Complainant and it is only when the final order dated 9/5/2007, the Complaint has been provided with complete information. However, this being the first case of the Opponent the Commission takes the lenient view by giving warning to the Opponent to be more careful in future in dealing with the request of the citizens under the Act.

12. In view of the above we pass the following order.

O R D E R

The penalty proceeding against the Opponent is hereby dropped.

Inform the parties.

Sd/-
Shri G.G. Kambli
State Information Commissioner

Sd/-
Shri A. Venkataratnam
State Chief Information Commissioner

Shrama Shakti Bhavan,
Patto, Panaji Goa.

Dated: 11/07/2007.

1. Shri P.V. Desai
B2F10, Excel Residency,
Caranzalem - Goa
2. Public Information Officer,
Shri D. N. Shetty,
Goa Antibiotics & Pharmaceuticals Ltd.,
Tuem, Pernem – Goa.

Sub: Complaint No. 66/2006/GA&P Ltd.

Sir,

I am directed to forward herewith the copy of the Order dated 10/07/2007 passed by the Commission on the above Complaint for information and necessary action.

Yours faithfully,

(V. V. Sawant)
Under Secretary,
Goa Information Commission.

Eccl: Copy of Order in 5 pages.