

**GOA INFORMATION COMMISSION**

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

**Penalty proceeding No. 31/06  
In Complaint No. 51/2006**

Ms. Milan G. Natekar,  
Sadhasiva – Bhuvan,  
Mapasa – Goa.

.... Complainant.

V/s.

The Public Information Officer,  
Ex-Officio, Joint Secretary,  
Directorate of Education,  
Panaji – Goa.

.... Opponent.

**CORAM:**

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

(Per G.G. Kambli)

Dated: 27/07/2007.

Complainant in person.

Opponent in person along with her authorized representative Shri A. V. Nasnodkar, AEO, (Legal).

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

This Commission in its order dated 25/4/2007 passed in Complaint No. 51/2006 had directed the Opponent to provide the information to the Complainant on 3 points as mentioned in para 6 of the said order within 15 days from the date of receipt of the order. The Opponent was also directed to show-cause as to why the penalty of Rs. 250/- per day delay should not be imposed in terms of section 20 of the Right to Information Act (for short the Act) for providing incomplete, vague and misleading information as well as for the delay. The contents of the said order may be treated as a part and parcel of this Judgment.

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2. The Opponent filed her reply. The opponent submitted that the application dated 5/12/2006 of the Complainant was received on 7/12/2006. The said application of the Complainant was processed and put up to the Opponent on 18/12/2006 and the Opponent put her remark on the file on 26/12/2006 as "let us give her information she wants urgent please". She has further clarified that the information could not be provided to the Complainant on 26/12/2006 as the file was under submission to the Government on 18/12/2006 which was received back only on 3/01/2007. On receipt of the file, the Complainant was asked to collect the information on payment of Rs. 110/-, which the complainant collected on 5/01/2007 and, therefore, according to the Opponent the information was provided to the Complainant within the statutory period of 30 days.

3. The Opponent further submitted that the information in respect of points at sr. No. III, XIV and XV could not be provided to the Complainant as the Complainant mistakenly mentioned references and dates of letters creating confusion. However, on referring to the page numbers the information was provided vide letter dated 4/04/2007 as per the direction of the Commission.

4. The Opponent further submitted that the information sought by the Appellant in respect of points No. 1, 2 and 3 was pertaining to the period of 1992, which was not readily available on the file, and therefore the Opponent had to mention the reasons "I do not know." The Opponent submitted that she had no any ulterior motive to withhold the disclosure of information to the Complaint or to deny the same. She added that earlier the matter of filling up the post of Curator was dealt with by the Under Secretary (Education) Secretariat and at present the matter is being looked after by her in the capacity of Ex-Officio, Joint Secretary to the Government under single file system. The Opponent also submitted that the Opponent has complied with the direction of the Commission and provided the information to the Complainant and the information on the 3 points was also furnished to the complainant vide letter dated 9/05/2007.

5. The Complainant filed her rejoinder and in her rejoinder the complainant has submitted that the Opponent has furnished to the Complainant false information. As regard point No. 1, the Complainant submitted that the Opponent has provided the information to the Complainant that no seniority of Librarian in the pay scale of Rs. 8,000-13,500/- was drawn since there exist only 1 post of Librarian in the pay scale of Rs. 8,000- 13,500/-. As against this, the Complainant submitted that there are Librarians in the pay scale of Rs. 8,000-13,500/- in the Government College at Sanquelim, Quepem and Khandola. Besides, there also exists 1 post of Librarian in the pay scale of Rs. 2,200 – 4000/- (pre-revised). The Complainant has also stated that she has held the post of Librarian for about 8 years in the pay scale of Rs. 2200-4000/- (pre-revised) and therefore the Opponent has provided false information stating that there exists only 1 post of Librarian in the pay scale of Rs. 8,000-13,500/-. Regarding the information provided on point No. 2, the Complainant has stated that there was a post of Librarian in the Central Library. There were post of Librarian in the Government College including that of Government Engineering College, Farmagudi. The Complainant submitted that the Opponent has not provided the information on point No. 3.

6. The facts of the matter, as brought out on record, are that the Complainant sought the information vide her application dated 5/12/2006, which was received in the office of the Opponent on 7/12/2006. According to the Opponent the said application of the Opponent was processed on 18/12/2006. That means, the relevant file was available with the Opponent when the application was received on 7/12/2006 as the file was submitted to the Government on 18/12/2006. The Application of the Complainant was processed after 11 days and the decision on the file was taken by the Opponent after 8 days from the date the file was submitted to the Opponent.

7. The case of the Opponent is that the information sought by the Complainant was provided within statutory period of 30 days. The

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grievances of the Complainant is that the Opponent has provided incomplete information deliberately and with ulterior motive thereby withholding the disclosure of the information on certain points.

8. The Complainant has sought the information on various points vide application dated 05/12/2006. However, the grievances of the Complainant are in respect of the following points.

	Information sought by the Complainant	Information provided by the Opponent
III	186/c letter from GPSC No.COM/1/1/15/1705/754 dated 03/11/2006	N.A.
XIV	146/c letter No.COM/11/11/15(1)05 dated 12/06/2006 regarding filling up the post of Curator clarify	N.A.
XV	117/c letter from GPSC to communicate seniority list of Librarian may be sent if not then kindly clarify under what provision of Rule the department to fill up the post by promotion.	N.A.
1.	Copy of the Seniority list of the Common Cadre of the Librarian post from the Directorate of Education, Technical Education and Higher Education.	N.A.
2.	Why the post of curator was not filled up by promotion after retirement of V. B. Hubli as the post filled by direct recruitment through GPSC	N.A.
3.	Why the Librarian from the Engineering College was not considered for promotion for the post of Curator in the Central Library when it was fallen vacant due to retirement of Shri V. B. Hubli.	N.A.

9. If one peruses the information provided by the Opponent to the Complainant on the above points, prima-facie, one can say that the information was not properly given. The Opponent has mentioned the words "NA" against the aforesaid points. It is not clear whether N.A. means

not available or not applicable. The Complainant sought the clarification from the Opponent on the words “NA” vide letter dated 8/01/2007 and the Complainant received the clarification from the Opponent only on 08/02/2007 that is after about a month. While giving the clarification of the word “NA” as not available, the Opponent has corrected the information on the following 3 points by substituting the earlier words “NA” as follows:-

1. Copy of the Seniority list of the Common Cadre of the Librarian post from the Directorate of Education, Technical Education and Higher Education. Not available.
2. Why the post of curator was not filled up by promotion after retirement of V. B. Hubli as the post filled by direct recruitment through GPSC I do not know
3. Why the Librarian from the Engineering College was not considered for promotion for the post of Curator in the Central Library when it was fallen vacant due to retirement of Shri V. B. Hubli. I do not know

9. This shows that the Opponent did not provide the correct and complete information to the complainant vide not dated 05/01/2007, as otherwise there was no need for the Opponent to make subsequent corrections. The Opponent has also not explained the delay as to why 1-month time was taken just to clarify the meaning of the word “NA” and to make correction in respect of the information on 3 points inasmuch as the Complainant sought the clarification vide letter dated 08/01/2007.

10. On direction from the Commission the Opponent has provided the following 3 documents to the complainant as can be seen from the letter dated 4/4/2007 of the Opponent:

1. Note from pg. 117/c.
2. Letter No.COM/II/11/15(1)/05 dated 12/1/2006 regarding filling up the post of Curator in the Central Library from GPSC pg. 146/c.
3. Letter No. COM/II/11/15(1)/05/754 dated 3/07/2006 from GPSC, pg. 186/c.

11. Thus, it will be seen that the page numbers given by the Complainant tally with the information provided by the Opponent. However, there are mistakes in the dates in the request letter of the Complainant whereas the numbers of the references given by the Complainant are correct. Being so we do not agree with the reply of the Opponent that the information sought by the Complainant at Sr. No. III, XIV, and XV were not available on the file. The Complainant has specifically mentioned the page number of the file and therefore the Opponent could have provided the copies of those pages. If the information could be provided on the direction of the Commission the same could have been given earlier by the Opponent.

12. Coming now to the information pertaining to point No. 1, initially the Opponent has informed the Complainant as "NA" which was subsequently clarified, on the request of the Complainant, as not available. On further direction by the Commission as per the order dated 25/04/2007, the Opponent has provided the information on the same point to the Complainant as follows:-

Information sought	Information provided
Copy of the seniority list of the common cadre of the Librarian post form the Directorate of Education, Technical Education and Higher Education	Since only one post of Librarian Gazetted in the scale of Rs. 8,000-13,500/- exists seniority list is not drawn and hence the same is not available.

13. The Complainant in her rejoinder has stated that the aforesaid information provided by the Opponent is false. According to the Complainant, there exists posts of Librarian in the pay scale of Rs.8,000-13,500/- in the Government Colleges at Sanquelim, Quepem and Khandola and that the Complainant herself had held the post of Librarian in the pay scale of Rs. 2200-4000/- (pre-revised) (revised Rs. 8,000-13,500/-) for 8 years. The Opponent has not rebated this allegation though the copy of the rejoinder was received by the Opponent. This clearly shows that the Opponent first vide note dated 05/01/2007 and subsequently note dated 31/01/2007 provided incomplete and misleading information and now vide

letter dated 09/05/2007 provided false information. As regard to the information provided to the Complainant on points at No. 2 and 3, we do not see anything wrong in the reply because the information is to be provided from the records. If in the records it is mentioned that no post of Librarian in Central Library exist in the file and also the reasons are not recorded on the file, the PIO cannot manufacture the information. Being so, the Opponent might have provided the information at points No. 2 and 3 based on the records available in the office.

14. The case of the Opponent is that the Opponent provided the information to the Complainant vide note dated 5/01/2007. However, as pointed out earlier, the information provided by the Opponent vide note dated 05/01/2007 was incomplete and misleading because the Opponent clarified the queries raised by the Complainant and also corrected the information on the points at Sr. No. 2 and 3 which shows that the Opponent did not provide complete and correct information.

15. The Act provides that whenever any citizen seeks any information, PIO should furnish complete and correct information. In the instant case the Opponent vide note dated 5/01/2007 provided incomplete and misleading information on the points mentioned in para 8 of this order. Subsequently the Opponent corrected the information on 3 points vide letter dated 31/01/2007 and informed the Complainant about the same after a month and this delay of 1 month has not been explained by the Opponent. The Opponent has also provided false information on point No. 1 to the complainant stating that there exist only 1 post of Librarian in the pay scale of Rs. 8,000-13,500/-.

16. It is the duty and obligation of the Public Information Officer to ensure that the information provided to the citizen is not incorrect, incomplete or misleading. The Complainant has specifically requested for the seniority list of the common cadre of the Librarian post from the Directorate of Education, Technical Education and Higher Education. The

reply given by the Opponent is that no seniority list is drawn since there exists only one post of Librarian gazetted in the pay scale of Rs. 8,000-13,500/- and hence the same is not available. The Complainant has pointed out that there are posts of Librarian in the Government Colleges at Sanquelim, Quepem and Khandola which are coming under Higher Education in the same pay scale therefore, apparently the Opponent has provided false information to the Complainant.

17. We are, therefore, satisfied that the Opponent has provided initially incomplete and misleading information and subsequently provided false information on point No. 1 regarding seniority.

18. Therefore, the Opponent is liable for imposition of penalty under section 20 of the Act. Though there has been an inordinate delay and also the information provided is false, we take the lenient view and impose penalty of Rs. 5,000/- on the Opponent. The said penalty shall be deducted from the salary of the Opponent from the month of August, 2007. The Directorate of Account is authorized to deduct an amount of Rs. 5,000/- from salary of the Opponent for the month of August, 2007 and furnish the compliance report by 15 September, 2007.

Parties be informed.

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

Sd/-  
Shri A. Venkataratnam  
State Chief Information Commissioner



No.GIC/ Complaint No. 51/2006/  
Goa Information Commission,  
Shrama Shakti Bhavan,  
Patto, Panaji Goa.

Dated: 06/08/2007.

To,

1. Ms. Milan G. Natekar,  
Sadhasiva – Bhuvan,  
Mapasa – Goa.
2. The Public Information Officer,  
Ex-Officio, Joint Secretary,  
Directorate of Education,  
Panaji – Goa.

Sub: Penalty proceeding No. 31/06 in Complaint No. 51/2006/DE.

Sir,

I am directed to forward herewith the copy of the Judgment and Order dated 27/07/2007 passed by the Commission on the above Complaint for information and necessary action.

Yours faithfully,

(Pratap Singh Meena)  
Secretary  
Goa Information Commission.

Eccl: Copy of Order in 8 pages.