

**GOA STATE INFORMATION COMMISSION**

Seventh Floor, Kamat Towers, Patto, Panaji –Goa.

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**CORAM: Shri Prashant S. P. Tendolkar  
Chief Information Commissioner  
Smt. Pratima K. Vernekar  
Shri. Juino De Souza  
State Information Commissioners**

In the matter of Shri Ashok Desai, Advocate in respect of several letter petitions/applications addressed by him to high dignitaries including the Hon'ble Prime Minister of India, The Hon'ble Governor of Goa, The Chief Secretary of Goa, and Goa State Information Commission. The said letters are dated as follows: 29/02/2016, 16/03/2016, 21/03/2016, 31/03/2016, 03/05/2016, 20/06/2016, 11/07/2016

**AND**

In the matter of the following Complaints / Appeals filed by Shri Ashok Desai personally and also wherein he is representing his clients, requesting this Commission to keep in abeyance all the complaints/appeals till appointment of one Goa State Information Commissioner to South Goa District at Margao being Complaint Nos.03, 08, 09, 11, 18, 19 /SIC/2013 & 38, 39, 91/SCIC/2012, 41, 89/SCIC 2012 and 31, 186 to 198, 210 /SIC/ 2011 and 40 & 41 /SIC /2012 & 92/SCIC / 2013 and Appeal No. 195/SCIC/2012.

**Date of Order: 15/07/2016**

**ORDER**

- 1) This order deals with a series of applications as referred above filed by Shri Ashok Dessai, the complainant in several of the above mentioned matters, interalia requesting this Commission keep in abeyance/pending all the complaints/appeals under the RTI Act, 2005 either personally filed by him and also wherein he

is representing his clients, till appointment of one Goa State Information Commissioner to South Goa District at Margao.

The Complainant has also addressed several letter petitions to high dignitaries including the Hon'ble Prime Minister of India, The Hon'ble Governor of Goa, The Chief Secretary of Goa as also to Goa State Information Commission the dates are as listed in the cause title. The Complainant has also made wild allegations and misleading statements without any truth.

- 2) It is seen that the Complainant has been sending repeated reminders as and when he receives notices of hearings in connection with his pending Appeals/ Complaints filed before the commission and is seeking relief for keeping the matters in abeyance/pending. All such applications were placed before a full bench of this commission for hearing and further for orders on 15/07/2016.
- 3) Accordingly notices were dispatched. During the hearing the Complainant has remained absent despite having received the notices sent by Registered Post (RPAD) without intimation to this commission.
- 4) We have perused the applications as well as the letter/petitions filed by Shri Ashok Desai and also scrutinized the material on record in the Complaint filed by him and also those in which he is representing his clients. We have also come across letters of the Complainant himself in some of the matters, requesting the Commission to expedite his matters without delay which are on record of the respective files.
- 5) At the outset we hold that the Complainant has no locus standie to file such letters/ applications and the same are not maintainable as there is no such provision for keeping in abeyance/pending the proceedings under the RTI Act 2005.

- 6)The State Information Commission hears and decides Appeals / Complaints in accordance with the procedure laid down under The RTI Act and the Rules framed there under and does not have the legal mandate to deviate from the same and as such the applications are liable to be dismissed.
- 7)The RTI Act 2005 confers the rights to Citizens for obtaining the information with a view to bring in transparency and curtail corruption. It is also the intention of the Act to bring efficiency in the operation of Government, and making optimum use of limited fiscal resources.
- 8)The RTI Act 2005 cast burden on the authorities concerned to dispose RTI applications filed by information seekers within the stipulated time frame. This is provided with the intent that the citizen should get information within minimum possible time and also that the resources of the Government are not stretched with inordinate delays in collecting and furnishing information.
- 9) The Hon'ble Supreme Court in the case of:

***Central Board of Secondary Education & another V/s Aditya Bandopadhyay*** (Civil Appeal no.6454 of 2011) has observed :

*"-----The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties."*

- 11) In the backdrop of the above principle as laid down by the Hon'ble Supreme Court, if one examines the matters in hand, it is evident that all the present complaints dates back to the year 2011. The complainant has also sought for relief in terms of section (20) of the RTI Act against the PIOs.
- 12) The PIO's have filed their replies and say with respect to the several Complaints pending for disposal before the commission since last six years. Timely disposal of these complaints on merits may perhaps lead to ultimate relief of penalty which is like a hanging sword on the concerned PIOs. Also in the event of further delay there could be every likely hood that some PIOs may retire or resigned or be out of service for some or the other reasons and the execution of any order of penalty may be in jeopardy.
- 13) Keeping the cases in abeyance would not only defeat the very purpose of the RTI act but will also lead to increasing backlog. The PIO's / FAA's of the public authorities will be under constant and continuous threat of the consequences of penalty, disciplinary action, etc, thereby creating an unnecessary pressure on authorities. Such a situation would be against the ratio as laid down by the Hon'ble Supreme court in the Case of *CBSE V/s Aditya Bhandopadhyay and others (Supra)*.
- 14) It appears to us that the Complainant has realized that the Commission may decide on his pending Appeals /Complaints sooner or later and has therefore intentionally filed several such Letters/applications to keep the matters pending with ulterior motive and as a ploy for exerting pressure on the appropriate government to appoint one State Information Commissioner to South Goa District.

- 15) The complainant/applicant has sought to keep the matters in abeyance or pending on the plea that the same be taken after the opening of office of the commission at South Goa District. The opening of such office in South Goa District is beyond the jurisdiction and competence of this Commission as any such call is to be taken by the appropriate government. Therefore we find that keeping the matters in abeyance is not the ideal remedy and such request, if granted, would cause further delays, inconvenience and prejudice to the opponents.
- 16) We also observe that the Complainant by repeatedly filing such applications has shown total disregard to his status as an Advocate as instead of discharging his sacred duty of upholding the rule of law by assisting the commission in expediting matters timely, is seeking to keep matters in abeyance without reasonable cause on flimsy grounds.

**We therefore find no merits in the request of the complainant for keeping the matters in abeyance/pending, vide above referred petitions/applications. Accordingly all the letters/applications of complainant/applicant, Shri Ashok Desai as listed in the Cause title, stands rejected. Any further representations/Petitions on the subject matter and seeking similar relief shall not be entertained hence forth.**

- 17) Before parting, the Commission wishes to place on record its displeasure at the tone and tenor of the letters / applications filed by the Complainant. Commission strongly condemns the using of rude and abusive pressure tactics to intimidate the commission members of filing impeachment proceedings in case the Complaints or Appeals are not kept pending or in abeyance as prayed for by him, which is unwarranted and uncalled for.

- 18) When the complainant represents himself as an Advocate, he is expected to strictly maintain and follow professional ethics as laid down in his practice. Advocates, in addition to being professionals, are also officers of the courts and play a vital role in the administration of justice and the set of rules that govern their professional conduct arise out of the duty that they owe to the court, the client, their opponents and other advocates.
- 19) The Commission takes a serious view of such intimidating acts on the part of the Complainant/applicant, Adv Ashok Desai which amounts to grave misconduct, unbecoming of an Advocate, and which renders action for punishment under the provisions of the Advocates Act 1961 and the rules there under.
- 20) The Commission however lets off the Complainant this time and expects that he shall not indulge in such acts of threat and intimidation tactics and maintain the dignity, decorum and respect of the Commission.

The matters to be taken up for hearing before the commission as per turn and as shall be listed on the board.

Copy of this order be sent to the complainants/applicants. Copy of this order shall also be placed in all the proceedings filed by Shri Ashok Desai personally and also those filed on behalf of his clients.

**Sd/-**  
**(Prashant S. P. Tendolkar)**  
Chief Information Commissioner

**Sd/-**  
**(Pratima K. Vernekar)**  
State Information Commissioner

**Sd/-**  
**(Juino De Souza)**  
State Information Commissioner