

GOA STATE INFORMATION COMMISSION

Kamat Tower, Seventh Floor, Patto Panaji-Goa

CORAM: Shri Prashant S.P. Tendolkar, Chief Information Commissioner.

Smt. Pratima K. Vernekar, State Information Commissioner.

Appeal No.100/SIC/2010

Shri Judas Thadeu Themudo,
H.No. 62/C-1st Daddio , Taulim,
Navelim, Salcete –Goa .

..... Appellant

V/s.

1. The Public Information Officer,
Village Panchayat Assolda/Xelvona,
Assolda.

..... Respondent No 1

2. The First Appellate Authority,
Block Development Officer,
Quepem Taluka,
Quepem –Goa.

..... Respondent No . 2

Filed on: 09/04/2010

Disposed on: 10/03/2016

BRIEF FACTS

1. By Application, dated 14/12/2009, the Appellant requested certain information from the Respondent No. 1 pertaining to some construction activities adjoining to the Appellant's Property at Xelvona.
2. According to appellant, by reply, dated 7/1/2010, the PIO furnished the information but the same was vague and not as per the queries.
3. As the Respondent No. 1 has failed to provide the information correctly as sought under the said application, dated 14/12/2009 the Appellant herein filed an appeal on 28/01/2010 against the said reply of the first respondent before the Respondent No. 2 i.e. the respondent no.2 herein ,being the first appellate authority.
4. According to appellant, Respondent No. 2 issued notice to the Appellant and the respondent No. 1 calling upon them to be present before the Respondent No. 2 on 08/02/2010, on which date next date of hearing was scheduled as 12/2/2010 for arguments and subsequently fixed for orders.
5. According to appellant he made efforts with the Respondents No. 2 to get the order/decision till date but in vain though the appellant was told that the order /decision would be made available immediately.
6. As no order was passed by the respondent no.2 in the said appeal, appellant has filed the present second appeal.

7. Parties were notified. We have perused the records and also heard the parties. The application filed by the appellant u/s 6 of the RTI Act required the PIO to furnish the copies of four documents. In the same application, by way of clarification it is mentioned therein that the said documents are of the areas within the Panchayat limits at Ward Xelvona and lying on the Eastern side and Western side of the appellant's property under survey No. 6/1. The said application pertains to some illegal construction but the said application did not pinpoint the details of the land, more particularly the survey number of the property wherein it was undertaken.
8. In reply to the said application u/s 6 of The RTI Act, PIO has submitted that the documents at serial nos. 1 to 3 are not available in the office and that the house of Sebastiao Felizardo is assessed in the year 2006-07.
9. On perusal of the said reply it is apparent that the PIO has understood that the information that was sought was pertaining to said Felizardo but it was not furnished. Thus though the application appears to be vague the intent thereof was known by PIO and hence that does not absolve him for furnishing the information.

Be that as it may, the PIO could have sought the clarification from the appellant. It is to be noted that the issuance of an any construction License by the Statutory bodies like Panchayat several permission are require to be obtained from other authority. Some among them being a Sanad under the Land Revenue Code as also a plan technically approved by the concerned authorities as also area statement prepared by expert. After completion of construction and obtaining an technical report the structure is granted an occupancy certificate by panchayat followed by levy of house tax. This is a statutory process to be followed by the panchayat thus all the records are either prepared by the Panchayat or obtained by the Panchayat for issuing licence. Thus the answer of the PIO that the said documents are not available in the office appearance totally irresponsible and evasive.

10. It is the grievance of the appellant the FAA though entertained the appeal, did not pass any order. This statement appears to be not based on facts. The Respondent No. 2 as FAA has filed on records the order passed it. From the records only it is evident that the said order was served to the appellant only on 01/06/2010, that is after filing of the appeal. Thus even by assuming that FAA has decided the appeal, the order therein was not served on the appellant. There is no presumption available on record that the said order was served on the appellant on any day prior to 1/6/2010 as is mandatory u/r 8 of The Goa State Information commission (Appeal Procedure) Rules 2006.

A perusal of the said order of F.A.A., which is filed by FAA on 23/6/2010, reveals that the said appeal was dismissed interalia holding that PIO has erred in not clarifying from appellant as to the nature of information sought. This

could have been sought by the FAA by seeking clarification from appellant during the hearing of the appeal itself and require the PIO to furnish the same.

11. Considering the records and the rival contentions of the parties, we are of the opinion that the ends of justice shall be met if the PIO is directed to furnish the information as sought by the appellant with clarity.

In the circumstance we proceed to dispose the present appeal with the following order:

ORDER

Appeal is allowed. PIO shall furnish to the appellant the information as sought for by the appellant under queries nos. 1 to 4 of his application, dated 14/12/2009 which shall be pertaining to and in respect of property and construction of Mr. Sebastiao Felizardo and of Sanju Fatto Costa Dessai. Said information shall be furnished by PIO within 7 days from the date of this order along with Xerox certified copies thereof, free of cost.

The appellant has prayed for penalty to be imposed on the respondent no.1. However considering the vagueness of the query in the initial application by the appellant, as observed above, we desist from imposing such penalty. Needless to say that in case of failure on the part of the PIO to comply with this order, the appellant shall be entitled to initiate appropriate proceedings under the law.

But considering the irresponsible attitude of PIO, as observed herein, being detrimental to the interest of RTI Act, he is warned that any such act in future shall be dealt with seriously and may also call for appropriate proceedings against him as contemplated under said Act.

Pronounced in the open Court in the presence of the parties.

Place : Panaji-Goa.

Sd/-

(Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji – Goa.

Sd/-

(Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission
Panaji – Goa.

