GOA STATE INFORMATION COMMISSION

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Appeal No.329/2023/SCIC

Mr. Alexinho F. Monserrate,
Santarbhat, Piedade,
Divar, Ilhas Goa 403001 ..... Appellant

V/s

1.The Public Information Officer,
O/o. Principal Chief Engineer (Technical Cell),
PWD, Altinho, Goa 403001.

2.First Appellate Authority,
Public Works Department,
Altinho, Panaji-Goa 403001.

3. Public Information Officer,
Department of Information & Technology (IT),
Electronics & Communications,
IT Hub, Altinho, Panaji Goa. .....Respondents

Shri Aravind Kumar H. Nair – State Chief Information Commissioner, GSIC

Relevant Facts Emerging from the Appeal

RTI application filed on	- **15-06-2023**
PIO replied on	- **04-08-2023**
First Appeal filed on	- **20-07-2023**
First Appellate order on	- **24-08-2023**
Second appeal received on	- **14-09-2023**
Decision of the Second Appeal on	- **06-01-2025**

Information sought and background of the Appeal

1. Mr. Alexinho F. Monserrate filed an RTI application dated 15/06/2023 to the PIO, Office of the Principal Chief Engineer (Technical Cell), PWD, Panaji seeking following information in connection with his letter dated 17/04/2023 addressed to the Authorities, Office of the Principal Chief Engineer (Technical Cell), PWD Altinho, Panaji requesting to file FIR on forged NOC :

   (i) *Submitted for the erection of Mobile Tower in Survey No. 2/1 of Village Navelim, Tiswadi taluka, Goa.*

   "With reference to above kindly issue certified copy of the action takes report in the matter under RTI Act 2005.

(ii) *Kindly inform the authority which is responsible for the verification of documents viz. ownership of land under which the Goa Telecom Infrastructure Policy 2020.*

2. On receipt of the RTI application dated 15/06/2023, PIO (Engineering Officer), PWD Altinho vide letter dated 15/06/2023 transferred the said RTI application u/s 6 (3) of the RTI Act to the PIO (Executive Engineer), Works Div-II, PWD Altinho, Panaji- Goa requesting to furnish the information directly to the Appellant under RTI Act 2005 under intimation.

3. In response to the RTI application Shri. Eduardo J. Pereira, Executive Engineer vide letter dated 04/08/2023 replied as-

"Point No. 1 – Action takes report – Not Available.
Point No. 2 – Not Applicable".

4. Dissatisfied with the reply received from the PIO (Executive Engineer), Works Div-II, PWD Altinho, Panaji , Appellant filed first appeal dated 20/07/2023 to the First Appellate Authority (Superintending Surveyor of Works), PWD Altinho, Panaji seeking direction to the PIO to furnish requested information and appropriate action against the PIO for not issuing information.

The FAA issued an order dated 24/08/2023 stating that *"After hearing the parties, this Authority is of the opinion that since the information sought by the Appellant is furnished as available in the office, the case is disposed off".*

5. Aggrieved by the order passed by the FAA in first appeal, Appellant preferred second appeal dated 14/09/2023 stating that the reply received from the Executive Engineer-II, PWD to the RTI application is false, misleading, evasive and frivolous. According to the Appellant the reply furnished to Question No. 1 is "*Action Taken Report Not available*" which either means no action has been taken on his letter dated 17/04/2023 submitted to the O/o.Principal Chief Engineer (Technical Cell) PWD, Altinho Goa or that action is taken but report is not available/traced.

6. Appellant further submitted that Executive Engineer-II, PWD (PIO) vide letter dated 27/12/2022 in connection with a vigilance enquiry replied that *"Verification of the documents submitted does not fall within the ambit of Public Works Department and the applicant is responsible for any wrong submission of ownership documents".*

7. According to the Appellant Shri. Monserrate, the order passed by the FAA is fabricated and manipulated to protect two PIOs involved in dealing this RTI application namely Engineering Officer (PIO) and Executive Engineer-II (PIO).

8. Appellant prayed before the Commission to direct the PIO to provide information to the RTI application, impose penalty on PIO for not providing information, compensation to the Appellant for mental torture and recommend the PWD personnel to undergo training to handle the RTI application.

9. Pursuant to the second appeal, parties were notified fixing hearing in the matter on 08/11/2023.

Facts Emerged in Course of Hearing.

10. The Respondent No. 1 in his written reply submitted that Appellant vide application dated 15/06/2023 had sought information pertaining to action taken report on his letter for filing an FIR on forged document, submitted for the erection of Mobile Tower in Survey No. 2/1, of Village Navelim, Tiswadi Taluka, Goa. Subsequently, the RTI application was transferred to Works Div-II, PWD vide letter dated 15/06/2023. FAA disposed off the first appeal of the Appellant since information sought by the Appellant was furnished as available in the office.

11. The Appellant vide letter dated 14/11/2023 filed a rejoinder to his second appeal stating that Respondent No. 1 is Executive Engineer, Works Division- II, PWD Panaji instead of Engineering Officer, PWD, Altinho and hence Executive Engineer Div-II be added as party in the present Appeal.

12. During the course of hearing, it is revealed that core issue of the RTI application of the Appellant is related to the permission granted by the Executive Engineer-II, PWD, Panaji vide permission letter dated 14/10/2022 to The Demello Telepower Pvt Ltd., H. No. 2/40A, Coutula waddo, Saligao, Bardez to erect Ground Base Mast in the land belonging to Om Shri Shakti Vinayak Saunsthan of Divadi Trust in Survey No. 2/1 at Somar waddo, Navelim, Diwadi, Tiswadi Taluka.

13. During the course of hearing, Executive Engineer-II, PWD Panaji submitted that the permission was granted by the PWD, which was the Nodal Department for the implementation of Goa Telecom Infrastructure Policy 2020 notified the Government of Goa in the year 2020, based on the NOC issued by Shri Om Shri Shakti Vinayak Saunsthan of Divadi Trust, who owns the land bearing Survey No. 2/1 in which the Mobile Tower is erected by Demello Telepower Pvt. Ltd.

14. However, Appellant has the opinion that Shri Om Shri Shakti Vinayak Saunsthan of Divadi Trust, is not the original owner of the land bearing Survey No. 2/1 of Navelim Village and hence the NOC given by them is forged and fabricated. Appellant further submitted that since the permission is granted by the PWD to the Demello Telepower Pvt. Ltd on the basis of the 'forged' NOC issued by Shri Om Shri Shakti Vinayak Saunsthan of Divadi Trust, PWD should revoke the permission granted by it.

15. Claming the NOC issued by the above said Trust as 'forged NOC', Appellant filed application dated 17/04/2023 to the O/o. Principal Chief Engineer (Technical Cell),PWD requesting to file an FIR with the concerned authorities.

16. Appellant had filed an application to the Department of Vigilance also seeking inquiry into the alleged forged NOC issued for the erection of Mobile Tower at Diwar in Survey No. 2/1, of Navelim Village Tiswadi taluka.

17. PWD informed that Directorate of Vigilance and also submitted before the Commission that NOC to the Demello Telepower Pvt. Ltd, Saligao was granted

by the President of Om Shri Shakti Vinayak Saunsthan of Divadi Trust on the letter head of Om Shri Shakti Vinayak Saunsthan of Divadi Trust.

18. During the hearing PIO, Department of Information Technology, Electronics and Communication, (DITEC) Nodal Department since April 2023 to issue permission for implementation of Goa Telecom Infrastructure Policy 2020, submitted that as per the letter received by the DITEC from the PWD dated 08/06/2023 as part of transfer of files from the O/o. Nodal Department (PWD) to the New Nodal Department(DITEC), permission to the Demello Telepower Pvt. Ltd to erect the Mobile Tower at Survey No. 2/1 at Somar waddo, Diwadi, Navelim Village is on the basis of NOC given by the Om Shri Shakti Vinayak Saunsthan of Divadi Trust to the Demello Telepower Pvt. Ltd.

19. The core issues raised by the Appellant during the hearing before the Commission are :

a) Forged NOC issued by Om Shri Shakti Vinayak Saunsthan of Divadi Trust to Demello Telepower Pvt. Ltd. Saligao.

b) Permission granted by the PWD to the Demello Telepower Pvt. Ltd to erect Mobile Tower at Survey No. 2/1.

c) Permission need to be revoked by the PWD as it granted on a forged NOC.

20. The PIO (PWD) submitted that the permission was granted by the Department to the Demello Telepower Pvt. Ltd. based on the NOC issued by the Om Shri Shakti Vinayak Saunsthan of Diwar Trust to the Demello Telepower Pvt. Ltd. in the land bearing Survey No. 2/1 belonging to the Om Shri Shakti Vinayak Saunsthan of Diwar Trust. PIO made it clear that the Department cannot revoke the permission based on the Appellant's allegation of 'forged NOC'. PIO further submitted that if the Appellant able to prove before the appropriate authority that the NOC given by the Om Shri Shakti Vinayak Saunsthan of Diwar Trust is forged one and the said appropriate authority issue direction to the PWD to revoke the permission granted to the Demello Telepower Pvt. Ltd, PWD has no other option but to comply with the same.

DECISION

(i) **Since the Information Commission has no jurisdiction under the provisions of the RTI Act, 2005 to intervene, decide or investigate into the genuiness of the NOC issued by the Om Shri Shakti Vinayak Saunsthan of Diwar Trust, ownership of the land in which Mobile Tower has been erected (Survey No. 2/1, Navelim Village), legality of the permission granted by the PWD to the Demello Telepower Pvt. Ltd and to issue direction to the PWD to revoke the permission granted by it, the Commission decided to dispose off the matter today i.e. 06/01/2025 with the direction to the Appellant to take up his core issue with the appropriate authority/authorities for the redressal of his complaint/grievance.**

(ii) ***The Commission however has reservation over the way reply given by Shri. Eduardo J. Pereira, Executive Engineer-II (not mentioned as PIO in the letter dated 04/08/2023) to the Appellant to his 2-point RTI application dated 15/06/2023.***

At Point No. 1, Appellant has requested to issue certified copy of Action Taken Report on his application dated 17/04/2023 addressed to the Authority, O/o. Principal Engineer (Technical Cell), PWD Panaji. Reply to this query was "Not Available". Instead of a reply in a mechanical or casual manner, Appellant deserves a genuine and proper reply. The reply should reveal whether any action is taken or not and furnish the details of action if action taken or if no action is taken mention the reason for that instead of a vague reply of 'NOT AVAILABLE'.

With regard to Point No. 2, Appellant asked the name of the authority which is responsible for the verification of the document pertaining to the ownership of land under Goa

Telecom Infrastructure Policy 2020. The reply furnished to the Appellant is 'Not Applicable'. Since the reply 'Not Applicable' can be interpreted in different manner, the reply should have been specific i.e. whether any system in place to verify the documents or not by the PWD being the agency empowered (till April 2023) to grant permission to erect Mobile Towers or any other department or authority is entrusted to verify the documents or not.

(iii) PIO, PWD is hereby directed to furnish proper reply to the Appellant's RTI application dated 15/06/2023 within 10 days from the receipt of this order.

- Proceeding stands closed.
- Pronounced in open Court.
- Notify the parties.

Sd/-

(ARAVINDKUMAR H. NAIR)
State Chief Information Commissioner, GSIC