

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No.60/SIC/2009

Nazar Da Silva,
Moirá Civic & Consumer Forum,
Sataporio, Moira,
Bardez – Goa

... Complainant.

V/s.

1) Public Information Officer,
Block Development Officer Bardez-II
Mapusa,
Bardez – Goa

.. Opponent No. 1.

2) First Appellate Authority,
Dy. Director of Panchayats (North),
Junta House,
Panaji – Goa

... Opponent No. 2.

Complainant in person.

Opponent No. 1 in person.

Authorised representative of Opponent No. 2.

Dated: 12.04.2010

ORDER

The Complainant on 20.05.2009 sought information under RTI Act pertaining to correspondence between the Block Development Officer, Bardez-II and Moira Civic & Consumer Forum (to be referred as MCCF) wherein the name of Karl de Souza appears as signing party for the MCCF and requires: 1) Letters, 2) Replies, 3) Applications, 4) Attachments, 5) Documents, 6) Circulars and 7) Copies of evidence requested by BDO Bardez-II or furnished by Karl de Souza giving legitimacy by Government registration if any for his appointment or revised appointment of office bearers.

2. By communication dated 09.06.2009 the Opponent No. 1 stated that a group of persons such as association Company, etc are not entitled for information and requested the Complaint to make

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application in his individual capacity. Not content with the reply of the Opponent No. 1 the Complainant preferred First Appeal and by Order dated 17.08.2009 due to the absence of the Complainant, the Appeal was dismissed for default.

3. In matters of Appeals under RTI Act are governed by the provision of section 19 of the RTI Act and the Rules framed thereunder. The information seeker has a right to prefer First Appeal against the disposal of the application for information under the RTI Act by the Public Information Officer and if again he is not satisfied with the Order of the First Appellate Authority, the information seeker can prefer the Second Appeal before the Commission. The Authorities deciding the appeals under RTI Act whether it is the First Appellate Authority or the Commission, the appeal has to be decided on merits and even in case the Appellant is absent the Appeal cannot be dismissed for default but to proceed and decide on the material available on record. The provisions of Rule 7(2) of Goa State Information Commission (Appeals Procedure), 2006 says that the Appellant or the Complainant, as the case may be, may at his discretion at the time of hearing or through his duly authorized representative or may opt not to be present. Under no circumstances the Appellate Authorities under the RTI Act should dismiss the Appeal for non-appearance of the Appellant.

4. Since the Complainant was not present at the hearing of the First Appeal, it was not proper on the part of the First Appellate Authority to dismiss the Appeal for default of the Complainant. Based on the material on record the First Appellate Authority ought to have decided the appeal on merits. In such circumstances the proper course would be to remand the case to the First Appellate Authority and after issuing notice to the Complainant as well as the

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Opponent for hearing of the Appeal, the First Appellate Authority to decide the Appeal according to law.

Sd/-
(Afonso Araujo)
State Information Commissioner

